

THE MEANING OF THE *IKHTILĀF AL-MADHĀHIB* IN  
‘ABD AL-WAHHĀB AL-SHA‘RĀNĪ’S *AL-MĪZĀN*  
*AL-KUBRĀ*\*

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*Abstract*

The *Mizān kubrā* by ‘Abd al-Wahhāb al-Sha‘rānī (d. 973/1565) was cited by nineteenth-century Muslim scholars to support a wide range of mutually exclusive conceptions of religious authority. In the twentieth century, modern students of Islamic law have given different assessments of Sha‘rānī’s view of the relationship between the *madhāhib*: while some stress its innovativeness and potential for legal reform, others regard it as a conservative restatement of scholastic tradition. In substantial agreement with the latter view, I discuss some of Sha‘rānī’s theories, focusing on the significance of his peculiar blending of Sufi and legal discourses for the cultural history of Islam in the early Ottoman period. I argue that Sha‘rānī’s aim is to bring Ibn ‘Arabi’s spiritual hermeneutics of the revelation into line with the “age of *taqlīd*.” As a “legal theorist” no less than a hagiographer, Sha‘rānī was an imaginative and reliable witness of the religious values and mentalités of his time. Far from calling into question the established system of the legal schools, he assigned a pivotal role to the metaphysical validation of *ikhtilāf* in order to strengthen a pluralist view of mainstream Islam.

*Introduction*

The *Mizān kubrā* by the Egyptian Sufi ‘Abd al-Wahhāb al-Sha‘rānī (d. 973/1565) is a well-known textbook on the differences of opinion amongst the schools of law (*ikhtilāf al-madhāhib*), the main section of which is based on an earlier work in the same genre by the Shāfi‘ī author Muḥammad b. ‘Abd al-Raḥmān al-Dimashqī.<sup>1</sup> The textbook

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<sup>1</sup> Quotations are taken from ‘Abd al-Wahhāb al-Sha‘rānī, *al-Mizān al-kubrā*, Cairo: al-Maṭba‘a al-‘Āmira, 1318 H. Dimashqī, *Raḥmat al-umma fī ikhtilāf*

itself, an exposition of the institutions of positive law, begins with a lengthy introduction in which the author, while addressing several theoretical questions related to the issue of *ikhtilāf*, harmonizes the positions of later Islamic scholasticism with those of the Sufi tradition.<sup>2</sup> In this essay, I will attempt to explain the legal and religious implications of the introduction to the *Mizān*.<sup>3</sup>

Shaʿrānī's unsystematic and occasionally self-contradictory style of exposition poses particular difficulties to the would-be interpreter. The *Mizān* is open to a wide range of interpretations. In the nineteenth century, conservative 'ulamā' with a Sufi background used the text to oppose *ijtihād*, while Sufi and Salafi reformers used it to support *ijtihād*.<sup>4</sup>

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*al-a'imma*, composed in 780/1378, is printed on the margin of this edition; on the indebtedness of the *Mizān* to the latter work, see I. Goldziher, "Zur Literatur des Ikhtilāf al-madhāhib," *ZDMG* 38 (1884), 669-82, at 675-82; *EI2*, s. v. "Ikhtilāf" (J. Schacht).

<sup>2</sup> *Mizān*, I, 2-86.

<sup>3</sup> I. Goldziher pointed out that Shaʿrānī's "theosophical" point of view is the distinguishing feature of the *Mizān*: see above fn. 1 and idem, *The Zāhirīs. Their doctrine and their history*, tr. W. Behn, Leiden: Brill, 1971, 37 and 165-7; subsequent generations of scholars have focused on either the book's legal content (see below, fn. 78-9) or on its Sufi inspiration (see M. Winter, *Society and Religion in Early Ottoman Egypt*, New Brunswick, N.J.-London: Transaction Books, 1982, 236-41; K.V. Johnson, *The Unerring Balance: A Study of the theory of sanctity (wilayah) of 'Abd al-Wahhab al-Shaʿrānī*, Harvard University, Ph.D., 1985, 88-104, with useful references to a wide range of Shaʿrānī's works).

<sup>4</sup> On the use of the *Mizān* by opponents of *ijtihād*, see: Gilbert Delanoue, *Moralistes et politiques musulmans dans l'Égypte du XIX<sup>e</sup> siècle (1798-1882)*, 2 vols., Institut Français d'Archéologie Orientale du Caire, 1982, I, 127, 160-1, II, 435-9; R. Peters, "Idjtiḥād and taqlīd in 18th and 19th Century Islam," *Die Welt des Islams* 20/3-4 (1980), 131-45, at 132 fn. 3 and 138; K.S. Vikør, *Sufi and Scholar on the Desert Edge: Muḥammad b. 'Alī al-Sanūsī and his Brotherhood*, London/Evanston 1995, 250-7. On the use of the *Mizān* by supporters of *ijtihād*, see: B. Radtke, "Ijtiḥād and Neo-Sufism," *Asiatische Studien* 48/3 (1994), 909-21, at 918; B. Radtke, J. O'Kane, K.S. Vikør, R.S. O'Fahey, *The Exoteric Aḥmad ibn Idrīs. A Sufi's Critique on the Madhāhib and the Wahhābis*, Leiden: Brill, 2000, 15-18. Another related work by Shaʿrānī, the *Kashf al-ghumma 'an jamī' al-umma* (see below, fn. 27), played an important role among Salafi groups in late nineteenth century Damascus: see D.D. Commins, *Islamic Reform. Politics and Social Change in Late Ottoman Syria*, New York—Oxford: Oxford University Press, 1990, 50-2 and 158 fn. 5 (on the gloss on the *Kashf al-ghumma* composed by Jamāl al-Dīn al-Qāsimī). Evidence of the popularity of Shaʿrānī's legal and Sufi writings in Damascene private book collections has been analyzed recently by L. Hudson, "Reading al-Shaʿrānī: the Sufi Genealogy of Islamic Modernism in Late Ottoman Damascus," *Journal of Islamic Studies* 15/1 (2004), 39-68. See also the following papers delivered at the IV International Conference on Islamic

Ambiguity is a common feature of different literary genres in the field of religious learning. The transmission of the received tradition juxtaposes a large number of authoritative statements while leaving many questions undecided, including the position of the author-compiler.<sup>5</sup> This is true of Shaʿrānī, who combines the inclusive approach of traditional scholars with the self-effacement characteristic of Sufi ethics.<sup>6</sup>

The tendency to reconcile contrary views sometimes led Shaʿrānī to engage in self-censorship and dissimulation, especially in his apologies for Sufism.<sup>7</sup> But his approach to hermeneutics was deliberate.

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Legal Studies: M. Winter, “*Fuqahāʾ* and Sufis in the Ottoman Arab World: Confrontation and Accommodation;” K.S. Vikør, “The Shaykh as *Mujtahid*: a Sufi Conception of *ijtihād*?”; A. Layish, “The Sudanese Mahdī’s Legal Methodology and Its Sufi Inspiration;” B. Abu-Manneh, “Salafiyya and Khālidiyya in Baghdad in the Early Nineteenth Century.” See also below, fn. 138 and 145.

<sup>5</sup> The point is perceptively discussed in a number of studies by N. Calder: “*Tafsīr* from Ṭabarī to Ibn Kathīr: problems in the description of a genre, illustrated with reference to the story of Abraham,” in *Approaches to the Qurʾān*, ed. G.R. Hawting and Abdul-Kader A. Shareef, London and New York 1993, 101-40, esp. 103-4, 126, 133-4; idem, “al-Nawawī’s Typology of *Muftīs* and its Significance for a General Theory of Islamic Law,” *Islamic Law and Society* 3/2 (1996), special issue: *Ijtihād and taqlid*, ed. W. Hallaq, 137-64, at 149; idem, “History and Nostalgia: Reflections on John Wansbrough’s *The Sectarian Milieu*,” in *Method and Theory in the Study of Religion. Journal of the North American Association for the Study of Religion* 9/1 (1997), special issue: *Islamic Origins Reconsidered: John Wansbrough and the Study of Early Islam*, ed. H. Berg, Walter de Gruyter: Berlin-New York, 47-73, at 57-68.

<sup>6</sup> See Shaʿrānī, *Laṭāʾif al-minan waʾl-akhḷāq fī bayān wujūb al-tahadduth bi-niʿmat Allāh ʿalā al-iṭlāq*, 2 vols., Cairo 1311, I, 35: “The recognition of the opinions of my opponents forms the texture of my being” (“*sadāya wa-luhmatī al-taslim liʾl-mukhālif*”). Cf. ʿAbd al-Karīm al-Qushayrī, *al-Risāla fī ʾilm al-taṣawwuf*, ed. Maʾrūf Zurayq and ʿAlī ʿAbd al-Ḥamīd Balṭajī, Beirut: Dār al-jil, n.d., 383 (*waṣiyyat al-murīdīn*): “The novice must not contradict anyone, and if he knows that he is right, he remains silent and shows his consent to everyone” (“*wa-yajibu an lā yukhālifa al-murīd aḥadan wa-in ʿalima anna ʾl-ḥaqq maʾahu yaskutu wa-yuḏhiru ʾl-wifāq li-kull wāḥid*”).

<sup>7</sup> For a general assessment of Shaʿrānī’s work as a historical source, see the seminal study by M. Winter, *Society and Religion in Early Ottoman Egypt*; on his recourse to “cajolery” (*mudārāt*), see Winter, 109, and *Mizān*, I, 17. On Shaʿrānī as a Sufi apologist, see Winter, 167-72; L. Massignon, *Essai sur les origines du lexique technique de la mystique musulmane*, Paris 1954, 130; D. Gril, “Le personnage coranique de Pharaon d’après l’interprétation d’Ibn ʿArabī,” *Annales Islamologiques* 14 (1978), 37-57, at 50. The argument of interpolation, used widely by Shaʿrānī in his apologies, has been turned against him in modern times in the context of a general critical revision of the legacy of Sufism: thus, according to Rashīd Riḍā, Muḥammad ʿAbduh would have said that neither the *Ṭabaqāt* nor

Among the virtues of which he boasts in his autobiography is his refraining from confining the reading of a text to a single interpretation. Expounding upon his exemplary conduct as a student of Shāfi'ī *fiqh*, he declares: "I have never categorically asserted that my understanding of the speech of the founding Imam [of my school] or of that of his followers corresponds to what he or they intended to say."<sup>8</sup>

The ideal rule of conduct to which he adhered as a student of *fiqh* is encouraged by Sufi teachings concerning Qur'ānic exegesis. Sha'rānī quotes in this regard a saying of his master 'Alī al-Khawwāṣ al-Burullusī (d. 939/1532):<sup>9</sup> "Two different persons never experience the same spiritual taste and the same spiritual station, due to the expansiveness of the Lawgiver's speech."<sup>10</sup>

'Alī al-Khawwāṣ was Sha'rānī's main spiritual teacher and the foremost source of Sufi wisdom in his writings, including the *Mizān*. According to Sha'rānī, al-Khawwāṣ was illiterate, which suggests that he was unable to read Ibn 'Arabī, although he often spoke like him.<sup>11</sup> In fact, al-Khawwāṣ' approach to hermeneutics, as reflected

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the *Laṭā'if al-minan* are authentic works of Sha'rānī: see M. 'Abduh, "Hiwār fī 'l-taṣawwuf wa'l-walāya," in *al-A'māl al-kāmila*, ed. M. 'Ammāra, Beirut: al-Mu'assasa al-'arabiyya li'l-dirāsāt wa'l-nashr, 2nd ed. 1980, III, 517-24, at 522.

<sup>8</sup> *Laṭā'if*, I, 37: "lam ajzam qaṭṭu bi-mā fahimtuhu min kalām imāmī aw muqallidīhi bi-anna dhālika murāduhu aw murāduhum."

<sup>9</sup> On al-Khawwāṣ, see Winter, *Society and Religion*, 57-8 and passim; see also E. Geoffroy, *Le Soufisme en Égypte et en Syrie sous les derniers Mamelouks et les premiers Ottomans. Orientations spirituelles et enjeux culturels*, Damas: IFÉAD, 1995, index, s. v. "Ḥawwāṣ, 'Alī."

<sup>10</sup> *Laṭā'if*, I, 37, l. 9: "lā yattahidu ithnān qaṭṭu fī dhawq wa-lā maqām li-wus' kalām al-shāri'."

<sup>11</sup> On the meaning of 'Alī al-Khawwāṣ' *ummiyya* in the context of the relationship between illiteracy and written authority in the Sufi tradition, see Geoffroy, *Le Soufisme en Égypte et en Syrie*, 299-307, and *EI2*, s. v. "Ummī" (E. Geoffroy). Since Brockelmann mentions a book about the day of 'Ashūrā' attributed to al-Khawwāṣ, it may be doubted whether he was really illiterate (see *GAL*, S II, 464, and Vikør, "The Shaykh as *Mujtahid*: a Sufi Conception of *ijtihād*?", 11 fn. 73). Be that as it may, the fact that some of al-Khawwāṣ' sayings are almost literal quotations from Ibn 'Arabī's writings is probably due to the intervention of Sha'rānī, who, as noted by Geoffroy (*Le Soufisme en Égypte et en Syrie*, 307), is not only a passive "transmitter" but also a "translator" of the master's words. In this way, the illiterate master is given the role of living spokesman of the Sufi writer, whose ideas are supported by the authority of oral transmission and restored to the inspiration of the "moment." Doctrines conveyed by books are thus extracted from the shade of libraries and individual study and brought out into the daylight of Cairo's streets and marketplaces. It may be added that Sha'rānī regards *ummiyya*, in its spiritual sense, as something which he himself learned from 'Alī al-Khawwāṣ

in the above quoted saying, is directly related to a Sufi saying often repeated in Ibn 'Arabī's work, according to which "the self-disclosure of God never repeats itself" (*'adam takrār al-tajallī*), a reference to God's continuous creation (*khalq jadīd*), which is at the same time a never-ending revelation.<sup>12</sup> In this light, to refrain from fixing upon a single interpretation of the Scripture is a mark of sainthood. The ever renewed understanding of the divine speech which occurs upon each recitation of the Qur'ān is a reenactment of its "descent" upon the Prophet.<sup>13</sup>

'Alī al-Khawwāṣ, once again echoing Ibn 'Arabī, reminds his disciple that to venture beyond the intended meaning of a speech (*murād al-kalām*) in an attempt to understand the intention of the speaker (*murād al-mutakallim*) amounts to unveiling (*kashf*).<sup>14</sup> This assertion, made with specific reference to Qur'ānic exegesis, can be applied to other discursive genres as well.

These preliminary remarks remind us that the acceptance of the author's "invitation to interpretation"<sup>15</sup> does not imply that one should attribute to him a univocal position and a rigorous doctrinal coherence.

Another preliminary remark is in order here. The introduction to the *Mizān* occupies a significant place in the scholastic literature as an outstanding example of the encounter between the disciplines of Sufism and *uṣūl al-fiqh*. Such a literary combination, part of the search for a harmonious synthesis between the legal and spiritual traditions, tallies well with the "moderate" kind of Sufism represented by Sha'rānī. But what does it mean, in his case, to be a "moderate" Sufi? I propose to approach this question by concentrating more on the formal, literary aspects of Sha'rānī's writings than on their doctrinal content. A prominent feature of Sha'rānī's moderation is his tendency to use

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after having acquired knowledge through books (*Laṭā'if*, I, 50; Winter, *Society and religion*, 57).

<sup>12</sup> See e.g. Ibn 'Arabī, *al-Futūḥāt al-Makkiyya*, Beirut: Dār al-Šādir, n.d. (reprint of Cairo 1329 ed.; henceforth *Fut.*), I, 184 l. 19 (*inna Allāh lā yukarriru tajalliyān 'alā shakhṣ wāhid wa lā yusharriku fīhi bayna shakhṣayn li'l-tawassu' al-ilāhī*). For further references, see W.C. Chittick, *The Self-Disclosure of God. Principles of Ibn al-'Arabī's Cosmology*, Albany: SUNY, 1998, 440; idem, *Imaginal Worlds. Ibn al-'Arabī and the Problem of Religious Diversity*, Albany: SUNY, 1994, 28, 156, 160.

<sup>13</sup> See the passage of the *Futūḥāt* in M. Chodkiewicz, *Un océan sans rivage. Ibn Arabī, le Livre et la Loi*, Paris: Seuil, 1992, 47-8 (translation and commentary).

<sup>14</sup> *Laṭā'if*, I, 37; cf. Chodkiewicz, *Un océan sans rivage*, 47.

<sup>15</sup> Calder, "al-Nawawī's Typology of Muftīs," 149.

“wide language” (*kalām wāsiʿ*), which functions as a bridge between different social and cultural milieus, namely, between the *zāwiya* and the *madrasa*, and between learned and popular culture. Such a “wide language”—as defined by his master ‘Alī al-Khawwāṣ—is in accordance with the literal meaning of the law (*ẓāhir al-sharīʿa*) and is understandable even to laymen.<sup>16</sup> It is thus distinguished from both the ecstatic word (*shatḥ*) that is seemingly at odds with the obvious meaning of the revelation and from the technical lexicon reserved for specialists. The clear and sober prose that characterises this “wide language” is best represented in the two literary genres that Shaʿrānī adopted from the Shādhilī tradition and to which he devoted most of his attention, namely, textbooks of Sufi ethics (*kutub al-muʿāmalā*) and the lives of the saints. The fact that these literary genres focus on the practical aspects of Sufi religious experience does not imply that authors cultivating them reject intellectual Sufism. To the contrary, pious practice (*ʿamal*) is based on knowledge (*ʿilm*), and this knowledge, in its Sufi meaning, is to be found in the *kutub al-mukāshafa*, that is, in texts which deal with the doctrinal problems relating to Sufi gnosis. Even though Shaʿrānī himself avoided writing *kutub al-mukāshafa*, and warned that unqualified readers should not have free access to them,<sup>17</sup> this does not mean that he suspected such books of being unorthodox (as was true of Ibn Khaldūn, who manifested a strong bias against “modern” schools of Sufism).<sup>18</sup> In fact, Shaʿrānī’s approach is cautious and wary compared to that of his contemporaries who introduced the Khalwatī order from Anatolia into Egypt, or as compared to later Ottoman Sufi writers.<sup>19</sup> And yet, as with these

<sup>16</sup> *Latāʾif*, I, 121: “The accomplished saint does not reach perfection until his speech (*kalām*) becomes utterly devoid of contradictions with the letter of the revealed law (*ẓāhir al-sharīʿa*), for the Lawgiver (pbuh) committed to him the custody of his *sharīʿa*”; “The accomplished saint does not wrap his speeches in mysteries and symbols, but he speaks in such a way as to be understood by scholars and laymen alike, because concealment and obscurities belong to the remnants of the lower soul” (*al-kāmil lā yasturu lahu kalāman wa-lā yarmuzuhu bal yatakallamu bi-kalām yasaʿu afhām al-ʿulamāʾ waʾl-ʿawāmm idh al-tasattur waʾl-rumūz min baqāyā al-nufūs*). See also *ibid.*, I, 52, where we find Ibn ʿArabī’s definition of the *malāmātī* saints as those who “speak with people using the language of laymen” (*wa-yatakallamūn maʿa al-nās bi-kalām al-ʿamma*). On the lenient attitude towards the use of dialectal forms (as opposed to excessive purism), see *Mizān*, I, 19.

<sup>17</sup> Winter, *Society and Religion*, 167-8.

<sup>18</sup> Ibn Khaldūn, *La Voie et la Loi, ou Le Maître et le Juriste. Shifāʾ al-sāʾil li-tahdhīb al-masāʾil*, tr. René Perez, Paris: Sindbad, 1991.

<sup>19</sup> Winter, *Society and Religion*, 105, 109-11, 193.

authors, the main source of Shaʿrānī's Sufi ideas is Ibn Arabi's *Futūḥāt Makkiyya*, which he considers to be an authoritative synthesis of all the Islamic sciences, both exoteric and esoteric; indeed, he assigns to this text a place even more important than Ghazzālī's *Iḥyā' ʿulūm al-dīn*. In fact the first category of scholars to whom he recommends the reading of Ibn ʿArabī's masterwork is the qualified jurist, who will discover there "secrets concerning the ways of derivation [of the legal rules]" and "sound *rationes legis* of which he was not previously aware."<sup>20</sup>

These remarks are found at the beginning of one of Shaʿrānī's abridgements (*mukhtaṣars*) of Ibn Arabi's *Futūḥāt*, entitled *al-Kibrīt al-aḥmar fī bayān ʿulūm al-Shaykh al-Akbar*. In fact, what he recommends to the general public is his own digest of the Great Shaykh's work, thus seeking to control access to this wondrous source of Sufi unveiling in a manner similar to that in which the *madhāhib* control access to the Qurʾān, the *Sunna*, and the statements of their founding Imams.

It has been suggested that Shaʿrānī's writings facilitated the widespread dissemination of Ibn ʿArabī's teachings amongst the *ṭuruq*.<sup>21</sup> The preface to the *Kibrīt*, as well as the *Mizān* itself, bear witness to an attempt at diffusion among students of *fiqh*.<sup>22</sup> I therefore cannot avoid referring to Ibn ʿArabī's legal thought in this essay, although I will touch upon only those aspects of it that are especially relevant to the topics raised in Shaʿrānī's work.<sup>23</sup>

<sup>20</sup> Shaʿrānī, *al-Kibrīt al-aḥmar fī bayān ʿulūm al-Shaykh al-Akbar*, Baḥrayn: al-Maktaba al-islāmiyya, 1411/1990, 5-6: "iṭṭalaʿa ʿalā asrār fī wujūh al-istinbāt wa-taʿlīlāt ṣaḥīḥa lam takun ʿindahū."

<sup>21</sup> Chodkiewicz, *Un océan sans rivage*, 27-8.

<sup>22</sup> On the influence of Sufi ideas on the juridical culture of Shaʿrānī's times, see generally Geoffroy, *Le Soufisme en Égypte et en Syrie*, 477-94.

<sup>23</sup> On Ibn ʿArabī's hermeneutics and legal thought see: M. Ghurāb, *al-Fiqh ʿinda al-Shaykh al-Akbar*, Damascus 1981/1401; M. Mansiyya, "al-Ijtihād kamā yarāhu Ibn ʿArabī," in *Qaḍīyyat al-ijtihād fī l-fikr al-islāmī*, *Cahiers du C.E.R.E.S.: série civilisation arabo-islamique* (Tunis), n.1 (1987), 125-46; C. Chodkiewicz, "La Loi et la Voie," in Ibn ʿArabī, *Les Illuminations de la Mecque*, ed. M. Chodkiewicz, [selected reprint of the 1988 edition], Paris: Albin Michel, 1997, 77-136; J.W. Morris, "Ibn ʿArabī's 'Esotericism': The Problem of Spiritual Authority," *Studia Islamica* 71 (1990), 37-64; E. Winkel, "Ibn ʿArabī's *Fiqh*: Three Cases from the *Futūḥāt*," *Journal of The Muhyiddin Ibn ʿArabī Society* 13 (1993), 54-74; Chodkiewicz, *Un océan sans rivage*; Naṣr Ḥāmid Abū Zayd, *Hakadhā takallama Ibn ʿArabī*, Cairo: al-Hayʾa al-miṣriyya al-ʾamma li'l-kitāb, 2002, 207-49. On the controversial question of Ibn ʿArabī's adherence to the *Zāhiri madhhab*,

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Following the view of classical Sunni scholars, Shaʿrānī regards differences of opinion amongst the schools of law as a “mercy” from God because they make it possible to choose between and among different solutions, thus enlarging (*tawsiʿa*) the law and facilitating its accomplishment.<sup>24</sup> This is the fundamental idea that lies at the base of the general criterion that he advances in order to reconcile all the differences of opinion, namely, that “the *sharīʿa* has been revealed on two levels: mildness and severity (*takhfif* and *tashdīd*) ... and not on a single level.”<sup>25</sup> Each pair of differing opinions finds its proper place on one scale or another of this balance, and is appropriate to a specific situation. Thus, differing opinions are only seemingly contradictory.

Shaʿrānī discusses the principle of “balance” at great length in the *Mizān* and he resumes it in his autobiography,<sup>26</sup> both written at the end of his career (966/1559 and 967/1560, respectively). But he had already presented this idea in one of his earliest works, the *Kashf al-ghumma ʿan jamīʿ al-umma* (936/1529), a collection of traditions arranged according to the subject headings of the textbooks of law. In the *Kashf*, Shaʿrānī seeks to demonstrate that all of the different opinions of the legal schools are based on *ḥadīth*. The introduction to this book contains the nucleus of the ideas that Shaʿrānī would later develop in the *Mizān*.<sup>27</sup>

This first version of the “balance” theory helps us to understand the context in which Shaʿrānī began to deal with the question of *ikhtilāf*. According to his own report, he was prompted to write the book by his discussions with pious Sufis (*fuqarāʾ mutaʿabbidīn*) and practitioners of humble trades (*ahl al-ḥiraf al-nāfiʿa*) who were dissatisfied with the jurists with whom it was their custom to consult. These laymen

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see also G.T. Elmore, *Islamic Sainthood in the Fullness of Time*. Ibn al-ʿArabī's *Book of the Fabulous Gryphon*, Leiden: Brill, 1999, 43.

<sup>24</sup> See e.g. *Mizān*, I, 3, 5, 15, 21, 59.

<sup>25</sup> “*Al-sharīʿa qad jāʾat ʿalā martabatayn takhfif wa-tashdīd... lā ʿalā martaba wāḥida*”: *Mizān*, I, 3, 4, etc.

<sup>26</sup> *Laṭāʾif al-minan*, I, 114-20.

<sup>27</sup> *Kashf al-ghumma ʿan jamīʿ al-umma*, Cairo: Dār al-fikr, 1408/1988, 3-12. The same ideas are discussed in another work by Shaʿrānī, *al-Mizān al-khaḍiriyya*, ed. ʿAbd al-Raḥmān Maḥmūd (Cairo 1989), which I have not seen. According to Goldziher, this book may be an apocryphal excerpt of the *Mizān*: “Zur Literatur des Ichtilāf al-madhāhib,” 675-82.



complained that the *fuqahā'* were forcing them to adhere to a single school of law in all their religious duties and transactions.<sup>28</sup> For this reason, the questioners were unable to distinguish between God's revealed law and its human interpretations.<sup>29</sup> Sha'rānī censures this practice, for which there is no textual support in the Qur'ān or the *Sunna*, and which violates the spirit of both by making the life of the ordinary believer (*āmmī*) more difficult and narrowing what was widened by the Lawgiver.<sup>30</sup>

This criticism reflects a struggle between Sufis and *fuqahā'* for social influence, a struggle that played a significant role in Sha'rānī's work.<sup>31</sup> It also resumes a standard argument of Sufi polemics against *fuqahā'* in which the target is not *fiqh* itself, but practical deviations from its ideal standards.<sup>32</sup> In the present case, the deviation is to allow particularism (*ta'aṣṣub*) to prevail over the universally accepted principle of the equal orthodoxy of the four *madhāhib*, and over the permissibility of adopting a milder practice that is legitimate in a school other than one's own. Polemics against *ta'aṣṣub* are naturally associated with traditionalist leanings, in the case of both Sufis and non-Sufis.<sup>33</sup> In Sha'rānī's case, we can probably speak of a particular instance of Shāfi'ī traditionalism.<sup>34</sup>

<sup>28</sup> Ibid., 3-4: "wa-yanfurūn min al-taqlīd bi-ghayr madhhabihim idhā shāwarnāhum fī 'l-tadayyun bihi."

<sup>29</sup> Ibid., 4: "qad iltabasa 'alaynā shar' rabbinā alladhī ta'abbadanā ta'ālā bihi 'alā lisān nabiyyinā Muḥammad (ṣ.) wa-'asura 'alaynā tamyīzuhu 'ammā sharra'ahu al-mujtahidūn min ummatihi."

<sup>30</sup> Ibid., 9.

<sup>31</sup> See further Winter, *Society and Religion*, 230-6.

<sup>32</sup> Ibn 'Arabī frequently criticizes the *fuqahā'* *al-zamān* who prevent the *muqallids* from searching for *rukhaṣ* and compel them to abide by a single school; this practice is in fact a deviation from the doctrines of their Imams: see *Fut.*, I, 392 (tr. by Chodkiewicz, *Un océan sans rivage*, 79) and II, 685; see also IV, 491. A similar passage by Ibn 'Arabī is quoted by Sha'rānī in *Laṭā'if*, I, 37. See also *Fut.*, I, 348 (quoted in *Mizān* I, 26), where Ibn 'Arabī states that the *fuqahā'* reject the *ijtihād* of their opponents, even though they know that they are not entitled to do so, because they fail to keep this principle in mind (*li-'adam istiḥdārihim mā nabbahnāhum 'alayhi ma'a kawnihim 'ālimīn bihi*).

<sup>33</sup> See e.g. Ibn Taymiyya: "fa-man yata'aṣṣabu li-wāhid mu'ayyan ghayr al-nabiyy... kāna jāhīlan ḍāllan," quoted in Wiederhold, "Legal doctrines in conflict: the relevance of *madhhab* boundaries to legal reasoning in the light of an unpublished treatise on *taqlīd* and *ijtihād*," *Islamic Law and Society*, 3/2 (1996), 234-304, at 251. See also H. Laoust, *Essai sur les doctrines sociales et politiques de Takī-d-dīn Aḥmad b. Taimīya*, Cairo: IFAO, 1939, 227.

<sup>34</sup> In the introduction to the *Kashf al-ghumma*, 12, Sha'rānī states that to the extent that Shāfi'ī claimed that his *madhhab* is strict adherence to *ḥadīth* (*idhā*

The introduction to the *Kashf al-ghumma* clearly leans towards traditionalism. Its declared purpose is to reestablish the direct link between *ḥadīth* and *aḥkām fiqhiyya*, because the life-practice of the Prophet, together with the Qur'ān, is the only legitimate source of legal rules. Law-making based on human reasoning (*tashrī'*) is thus consistently opposed to conformity with the Prophet (*ittibā'*).<sup>35</sup> All the jurists who "generated legal rules on the basis of their reason" (*kullu man wallada bi-'aqlihi ḥukman*) will have to account for this on the Day of Resurrection; traditionists who limit themselves to the literal transmission of the *Sunna* have inherited a larger share of the Prophet's knowledge.<sup>36</sup>

These statements should be read against the background of the Sufi conception of *ittibā'*, namely, participation in an inspired, prophetic knowledge as opposed to submission to human authority. The perfect follower of the Prophet is more than a simple transmitter: his conformity with revelation is granted him by God together with the "light of gnosis,"<sup>37</sup> he can be informed by Khadīr about the soundness of a *ḥadīth*,<sup>38</sup> and unveiling makes it possible for him to understand the full meaning of the Prophet's words<sup>39</sup>—as such, he is a harbinger of the Mahdī.<sup>40</sup>

Sha'rānī explains that his text contains only traditions used as textual indicators by the four schools and that he has omitted the chains of transmission because the adoption of a tradition by a legal school suffices to establish its authenticity.<sup>41</sup> And since the *Sunna* is thus

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*ṣaḥḥa al-ḥadīth fa-huwa madhhabī*), every doctrine based on this source actually belongs to the Imam (*fa-jamī' al-madhāhib 'alā ḥādḥā madhhab li'l-Shāfi'i*). See also *Mizān*, I, 10 (the Shāfi'i *madhhab* is pure *sharī'a*) and below, fn. 43. Sha'rānī's approach may be compared to that of the Shāfi'i Sufi 'Alā al-Dawla Simnānī (d. 736/1336), who wrote a book in which he argued for the equal orthodoxy of the schools, but nevertheless celebrated the excellence of his own *madhhab*: see M. Molé, "Les Kubrawiyya entre sunnisme et shiisme aux huitième et neuvième siècles de l'Hégire," *Revue des Études Islamiques* 29 (1961), 61-142, at 96 and 141.

<sup>35</sup> *Kashf*, I, 5, 9.

<sup>36</sup> *Ibid.*, 9-10. Sha'rānī seems to be following Ibn 'Arabi even when praising traditionists: see *Fut.*, I, 229 and 403.

<sup>37</sup> *Kashf*, I, 12.

<sup>38</sup> *Ibid.*, 345.

<sup>39</sup> *Ibid.*, 5, 6-7.

<sup>40</sup> *Ibid.*, 9. See also below, fn. 149.

<sup>41</sup> *Ibid.*, 6: "*Kafānā ṣiḥḥatan li-dhālika 'l-ḥadīth istidlāl mujtahid bihi*"; see also *Mizān*, I, 55 and 84. He later wrote a supplement (*al-Manhaj al-mubīn fī bayān adillat al-mujtahidīn*) which contains the *isnāds* of the traditions quoted in the *Kashf*: see *Laṭā'if*, I, 42; *Mizān*, I, 9, 1. 4.

delimited *a posteriori* on the basis of the actual doctrine of the schools, it is questionable whether a rejection of the schools' authority can be detected even in this overtly polemical early book (which, for some reason, is not mentioned in the *Mizān*, even though it is partly exploited there).<sup>42</sup> In any case, in the *Kashf al-ghumma*, differences of opinion are legitimized by the *ikhtilāf al-sunna*, without direct reference to the legal literature.

When we move to the *Mizān*, tone and perspective change considerably, even though traditionalist arguments recur here time and again.<sup>43</sup> Sha'rānī claims that he submitted this book to jurists for examination prior to its publication,<sup>44</sup> and he quotes "modern" *uṣūlīs* as authoritative sources in an attempt to legitimize his ideas on *ikhtilāf*. In this way, the theory of "balance" which, in the earlier work, was opposed to the jurists' science, is adduced here in support of scholastic tradition.

The main topic at issue is *taqlīd*, specifically the question of whether or not it is permissible to adopt, for a particular act, the doctrine of a school other than the one that is generally followed.<sup>45</sup> Sha'rānī's main authorities here are Badr al-Dīn Muḥammad b. 'Abd Allāh al-Zarkashī (d. 794/1392) and Jalāl al-Dīn al-Suyūṭī (d. 911/1505). He quotes Zarkashī's *Qawā'id al-fiqh*<sup>46</sup> concerning the possibility of adopting a stricter or a milder rule ('*azīma* or *rukḥṣa*) from a different school.<sup>47</sup> As for Suyūṭī, who was one of his main teachers,<sup>48</sup> he refers

<sup>42</sup> *Mizān*, I, 63-84.

<sup>43</sup> For example, Sha'rānī often refers to the well-known saying attributed to Shāfi'ī: "If you find something in my book contrary to the *Sunna* of the Prophet, adopt the *Sunna* of the Prophet and abandon what I have said" (*Mizān*, I, 16, 48-9; see also 9, 21, 22, 23). The principle is not so much intended as an invitation to reason independently based on *ḥadīth*, as it is a permission to adopt the opinion of a *mujtahid* from another school supported by *ḥadīth*: this is how Shāfi'ī's statement was interpreted in the *madhhab* by Ibn al-Ṣalāḥ (643/1245): see M. Fadel, "The Social Logic of *Taqlīd* and the Rise of the *Mukhtaṣar*," *Islamic Law and Society* 3/2 (1996), 193-233, at 202-3. See also above, fn. 34.

<sup>44</sup> *Mizān*, I, 3 and 7-8.

<sup>45</sup> See D. Santillana, *Istituzioni di diritto musulmano malichita con riguardo anche al sistema sciafiita*, 2 vols., 2nd ed., Roma: Istituto Per l'Oriente, 1926-1943, I, 78-9; J. Schacht, *An Introduction to Islamic Law*, Oxford 1964, 68. *Taqlīd* is also the term used by Sha'rānī in the *Kashf al-ghumma* to indicate the practice of following a different school: see above, fn. 28.

<sup>46</sup> Sha'rānī wrote a *mukhtaṣar* of this work: see *Laṭā'if*, I, 42; *Mizān*, I, 63, ll. 8-9; *El1*, s. v. "Sha'rānī" (J. Schacht), no. 57 of the bibliography given in the article.

<sup>47</sup> *Mizān*, I, 13. Sha'rānī generally uses the terms '*azīma* and *rukḥṣa* as equivalents of *tashdīd* and *takhfīf*, not in the technical sense specified by the

to him in order to explain the conditions under which it is permissible to change *madhhab* and to issue legal opinions in accordance with any of the four schools.<sup>49</sup> The same arguments and authorities reappear in the legal literature devoted to the subject in the following century, in both the Shāfi'ī and the Ḥanafī schools.<sup>50</sup> For Sha'rānī, as for his predecessors and most of his followers up to the modern period, the search for a *rukḥṣa* or an *'azīma* from a different school is permitted unless it results in *talfīq*—i.e., the combination of different doctrines in a single act.<sup>51</sup>

The question of the relationship between the schools is related to two important theoretical problems. The first is the definition of *ijtihād*. This is because the possibility of giving preponderance to the doctrine of a different school is one of the prerogatives of the limited *mujtahid*,

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*uṣūliyyūn*: ibid., I, 12. The more general meaning of the term *rukḥṣa* ("the easiest matter"—*al-amr al-ashal*) was also preferred by Ibn Ḥajar al-Haytamī (d. 974/1566), referring to Nawawī: see Wiederhold, "Legal doctrines in conflict," 280 (English translation) and 298 (Arabic text). On the technical sense of the two terms, see EI2, s. v. "Rukḥṣa," part I, In law (R. Peters); Santillana, *Istituzioni di diritto musulmano*, I, 42; W.B. Hallaq, *A History of Islamic Legal Theories*, Cambridge 1997, 177ff. On the views of Muslim scholars regarding the positive religious value of *rukḥṣa*, see M.J. Kister, "On concessions and conduct. A study in early *ḥadīth*," in *Studies on the First Century of Islamic Society*, ed. G.H.A. Juynboll, Carbondale 1982, 89-107 and 214-30.

<sup>48</sup> Winter, *Society and Religion*, 56.

<sup>49</sup> *Mizān*, I, 31 and 34. Sha'rānī quotes two works by Suyūṭī, without mentioning the titles: *Jazīl al-mawāhib fī ikhtilāf al-madhāhib* and *al-Radd 'alā man akhlada ilā al-arḍ wa-jahila anna al-ijtihād fī kull 'aṣr farḍ*. I have not seen the former, but the passage corresponds to the summary by Wiederhold, "Legal doctrines in conflict," 256-8. On the latter, see below, fn. 55.

<sup>50</sup> Cf. the *Risāla fī 'l-taqlīd* by an anonymous Shāfi'ī author of the seventeenth century studied and translated by Wiederhold, "Legal doctrines in conflict." Zarkashī is quoted here, 285-6 (English translation) and 301 (Arabic text). This source may be supplemented with another treatise on the same subject written at about the same time by 'Abd al-Ghanī al-Nābulusī: *Khulāṣat al-taḥqīq fī bayān ḥukm al-taqlīd wa'l-talfīq*, Istanbul: Ihlās Vakfı, 1406/1986. A different passage of Suyūṭī's *Jazīl al-mawāhib fī ikhtilāf al-madhāhib* is quoted here, 7-8. In this work, composed in 1086/1674, Nābulusī refutes a treatise by a contemporary Ḥanafī scholar who reportedly supported the practice of *talfīq*.

<sup>51</sup> Even though he does not use the verbal noun "*talfīq*," the author says that the *'ibāda mulaffaqa* is invalid, reminding the reader that it is necessary to observe in a single transaction all the conditions established by a single school: *Mizān*, I, 13 and 14. As for *takhyīr* (here the freedom to choose from among the opinions of different schools), it is permitted without limitation when based on contradictory *ḥadīths*, none of which has been abrogated (ibid., 11), whereas a dispensation is permitted only in case of necessity (ibid. 8-9 and 12).

or of the *muqallid* 'ālim, as some prefer to call him. The second theoretical problem is whether the schools' *ikhtilāf* amounts to a consensus on the existence of a limited set of alternative solutions: in that case, when the same matter is the subject of two equally legitimate variant opinions, subsequent generations of jurists can neither invalidate one of the two nor adduce a third opinion.<sup>52</sup>

Sha'rānī's position on *ijtihād* is nuanced. To start with, he professes his belief (*i'tiqād*) that the rank of the founding Imams, i.e. absolute *ijtihād*, can be reached in any period of time. He adds, however, that nobody has actually reached this rank; e.g., even if Muḥammad b. Jarīr al-Ṭabarī claimed to have reached this rank, no one has accepted his claim.<sup>53</sup> Then, adopting Suyūṭī's terminology, he states that the highest rank that can be attained through legal reasoning (in contradistinction to unveiling, to which I will return below) is that of the "absolute affiliated" jurist (*mujtahid muṭlaq muntasib*), which applies not only to the first followers of the Imams, like the Shāfi'ī Muzanī or the Ḥanafī Abū Yūsuf, but also to post-classical doctors qualified to give legal opinions in any of the four schools.<sup>54</sup>

This kind of *mujtahid* may not derive rules directly from the Book and the *Sunna*, because this work has already been accomplished.<sup>55</sup> Concerning questions that were already discussed in the earlier literature, the jurist is limited either to giving preponderance to one of two alternative opinions or to finding the textual indicator or the rationale upon which a doctrine is founded. The latter approach is

<sup>52</sup> See É. Chaumont, "Tout chercheur qualifié dit-il juste?" (*hal kull mujtahid muṣīb*). La question controversée du fondement de la légitimité de la controverse en Islam," in *La controverse religieuse et ses formes*, ed. A. Le Boulluec, Paris 1995, 11-27, at 26; Hallaq, *A History of Islamic Legal Theories*, 80-1; N.J. Coulson, *A History of Islamic Law*, Edinburgh 1964, 80-1. Nābulusī (*Talḥīq*, 20) rejects the practice of *talḥīq* precisely on this ground, because the combination of different doctrines amounts to the creation of a new one, which, in turn, entails the breaking of the *ijmā'* — unless the latter is limited to the Companions. But this is not true of Nābulusī's opponent, who adheres to the Ḥanafī *madhhab*.

<sup>53</sup> *Mizān*, I, 13 and 31.

<sup>54</sup> *Ibid.*, I, 13; see in this regard Calder, "al-Nawawī's Typology of *Muftīs*," 150.

<sup>55</sup> *Mizān*, I, 31: "*laysa fī quwwat ahad an yabtakira 'l-aḥkām wa-yastakhrijahā 'an al-kitāb wa' l-sunna fī-mā na'lamu abadan*," cf. the definition of the *mujtahid muṭlaq muntasib* given by Suyūṭī, *al-Radd 'alā man akhlada ilā al-arḍ wa-jahila anna al-ijtihād fī kull 'aṣr farḍ*, Cairo: Maktabat al-thaqāfa al-dīniyya, n.d., 39: "*lam yabtakir li-naḥsihi qawā'id bal salaka ṭarīqat imām min a'immat al-madhāhib fī 'l-ijtihād*."

what Shaʿrānī proposes to carry out in the main part of the *Mizān*, and this is what distinguishes his textbook from its unacknowledged model, the *Rahmat al-umma* of Dimashqī.<sup>56</sup> However, Shaʿrānī is more interested in the spiritual basis of the rules than he is in their legal basis.<sup>57</sup> This feature places the *Mizān* midway between the genre of legal textbook and the Sufi literary tradition, represented, notably, by the section on *ʿibādāt* in Ibn ʿArabī's *Futūḥāt*, the main content of which is an extensive discussion of the differences of opinion among the *ʿulamāʾ*. But whereas Ibn ʿArabī does indicate his own solutions along with the transmitted *ikhtilāf*, Shaʿrānī remains within the boundaries of the *ikhtilāf* transmitted in standard legal literature. Thus he acts as if the divergences of the schools have the value of a consensus, even if he does not state so explicitly.<sup>58</sup>

Besides these theoretical questions, and even more importantly, the issue of *ikhtilāf* is related to the practice of the layman. Shaʿrānī's "Balance" addresses the needs of both the pious who wishes to adopt the severe prescriptions (*ʿazāʾim*) of different schools, and the ordinary believer who is looking for more lenient rules (*rukhaṣ*).<sup>59</sup> His use of the terms "*azīma*" and "*rukḥṣa*" is based mainly on their meaning in Sufi ethics. The two scales of the "Balance," *tashdīd* and *takhfīf*, are in fact appropriate, respectively, to the "strong" and the "weak," or, as he also says, to *khāṣṣa* and *ʿāmma*.<sup>60</sup> These two categories sometimes refer to the social condition<sup>61</sup> but more frequently to the spiritual status of people.<sup>62</sup> Shaʿrānī thus follows the teaching of

<sup>56</sup> I. Goldziher maintained that Shaʿrānī's frequent citations of the founder of the Zāhirī school are due to his peculiar "theosophical" indifference towards the differences between the schools: *The Zāhirīs*, 37. But Shaʿrānī's references to, and treatment of, the opinions of Dāwūd b. Khalaf do not represent a departure from the preceding literature, e.g. Dimashqī's textbook: see e.g. *Rahmat al-umma*, I, 6 (= *Mizān*, I, 91); 145 (= *Mizān*, II, 38); 146 (= *Mizān*, II, 38); 150 (= *Mizān*, II, 44); 153 (= *Mizān*, II, 47); 159 (= *Mizān*, II, 99); II, 65 (= *Mizān*, II, 99); 110 (= *Mizān*, II, 126). Moreover, Shaʿrānī regards the Zāhirī *madhhab* as one of the schools that had become extinct: I, 24 and 44. See also below, fn. 139-40.

<sup>57</sup> Cf. *Mizān*, I, 37: "*ta'yīd li-kalām a'immat al-sharī'a bi-tawjīh li-kalāmihim bi-kalām ahl al-ḥaqīqa.*"

<sup>58</sup> I have found an explicit reference to the *ijmā' al-umma* as a source of obligation only in the introduction to the *Kashf al-ghumma*, 10.

<sup>59</sup> *Mizān*, I, 22.

<sup>60</sup> See e.g. *Mizān*, I, 65; II, 21.

<sup>61</sup> *Mizān*, I, 64, 76; II, 53, 54 (in all these cases, the prescription adopted—milder or more severe—depends on the wealth of the believer).

<sup>62</sup> *Mizān*, I, 9, 14, 16-7, 19, 24; *Laṭā'if*, I, 35.

classical Sufism, according to which the “strong” who pursue the stricter pattern of behaviour are the Sufis.<sup>63</sup>

The Sufi, in his struggle against his lower self, chooses, in case of *ikhṭilāf*, the stricter ordinances of the schools.<sup>64</sup> For some Sufis, this struggle never ends; they emphasize, however, that rigour applies to the ethical and not to the legal domain and is limited to individual practice and to the instruction of novices, without entailing determination of the illicit or obligatory character of acts for society-at-large.<sup>65</sup> For others, including Shaʿrānī, the renunciation of what is permissible belongs to the formative period of the Sufi path, the *sulūk*,<sup>66</sup> but can be abandoned at its end.<sup>67</sup>

Therefore, whereas the *khāṣṣa* look for difficulty, the *khāṣṣat al-khāṣṣa*, who have tamed their lower souls, choose ease.<sup>68</sup> The ac-

<sup>63</sup> See *EI2*, s. v. “Rukḥṣa,” part II, In Sufism (J.G.J. ter Haar).

<sup>64</sup> See e.g. L. Massignon, *La Passion de Hallāj*, Paris: Gallimard, 1975, III, 16, 237 fn. 7, 238 fn. 5; F. Sobieroj, *Ibn Ḥafīf ash-Shīrāzī und seine Schrift zur Novizenerziehung (Kitāb al-Iqṭiṣād): biographische Studien, Edition und Übersetzung*, Stuttgart: Steiner, 1998, 170-2; Kalābādhi, *al-Taʿarruf li-madḥhab ahl al-taṣawwuf*, ed. Aḥmad Shams al-Dīn, Beirut: Dār al-kutub al-ʿilmiyya, 1413/1993, 95; Qushayrī, *al-Risāla*, 380 (*waṣiyyat al-murīdīn*); Nūruddīn Abdurrahmān-i Isfarāyīnī, *Le Révélateur des mystères. Kāshif al-asrār*, ed. and tr. by H. Landolt (Paris: Verdier, 1986), intr. 35 and Persian text 121.

<sup>65</sup> See J.G.J. ter Haar, *Follower and Heir of the Prophet. Shaykh Aḥmad Sirhindī (1564-1624) as mystic*, Leiden, 1992, 80-2. See also Sirhindī, *al-Mabdaʾ waʾl-maʿād*, Arabic translation by M. M. al-Manzilawī, on the margin of *Muʿarrab al-Maktūbāt al-sharīfa*, 2 vols., Istanbul, n. d., II, 26-7 (the master forbids his novices to consume foods whose licitness is the subject of even the slightest doubt, “without emending the pronouncement of the law on this matter”—*min ḡhayr an yusaḥḥiha fī ḥādḥā al-bāb fatwā al-sharīʿa*). Ibn ʿArabī, in turn, while advising his disciples to abstain from *rukḥṣa* (*Fut.*, I, 723, ll. 10-11), also says: “If you want to adhere to the ʿazāʾim, do so, but only with respect to yourself (*wa-lākin fī-mā yakhtaṣṣu bika*), because the sound conduct (*sunna*) is mitigating hardship” (*ibid.*, IV, 491). On the other hand, Shāṭibī criticizes Sufism, accusing the shaykhs of arbitrarily narrowing the scope of permissibility: see Hallaq, *A History of Islamic Legal Theories*, 163, 174, 176-8, 194-5.

<sup>66</sup> *Laṭāʾif*, I, 35 and 41.

<sup>67</sup> Winter, *Society and Religion*, 151-3. See also *Mizān*, I, 16. On the historical relationship between the latitudinarian trend in Sufism and the increasing influence of the nascent Sufi orders on society, see F. Sobieroj, “Ibn Khafif’s *Kitāb al-Iqṭiṣād* and Abū al-Najīb al-Suhrawardī’s *Ādāb al-murīdīn*. A comparison between two works on the training of novices,” *Journal of Semitic Studies* 43/2 (1998), 327-45.

<sup>68</sup> Many examples are related to sexual ethics: *Mizān*, I, 97-8; II, 20; see also *Laṭāʾif*, I, 50-1, 112. Winter mentions several examples of Shaʿrānī’s liberal attitude (*Society and Religion*, 183, 189, 190, 292).

complished mystic thus rejoins the *‘amma* in his conduct, contenting himself with the appearance of things, without seeking to find out hidden causes of impermissibility (Sha‘rānī sometimes calls the discovery of such hidden causes “the devilish unveiling”).<sup>69</sup> At the same time he rejoins the ideal *muftī*, who issues his legal opinions according to the exterior aspects of the law and not according to its interior aspects (as a *shaykh* does privately with his disciples).<sup>70</sup>

The scholar who follows the principle of alleviating hardship adheres to the original principle to which mankind ultimately will arrive when in Paradise, whereas the scholar who imposes hardship adheres to an accidental condition that will come to an end with the cessation of subjection to the law (*fa’ l-‘ālim al-dā’ir ma’a raf’ al-ḥaraj dā’ir ma’a ’l-aṣl alladhī yantahī ilayhi amr al-nās fī ’l-janna bi-khilāf al-dā’ir ma’a ’l-ḥaraj fa-innahu dā’ir ma’a amr ’ārīḍ yazūlu bi-zawāl al-taklīf*) (*Mizān*, I, 26-7).

The people of unveiling said: the original principle is the absence of prohibition, for this is the condition to which mankind ultimately will arrive in Paradise. This is why alleviating hardship is in accordance with the original principle, whereas imposing hardship runs counter to it (*wa-qad qāla ahl al-kashf: inna al-aṣl ‘adam al-tahjīr fa-innahu al-amr alladhī yantahī ilayhi amr al-nās fī ’l-janna fa-li-dhālika kāna raf’ al-ḥaraj dā’iran ma’a ’l-aṣl wa’ l-dā’ir ma’a ’l-ḥaraj dā’ir ma’a khilāf al-aṣl*). (Ibid., II, 40-1).

The pursuit of the alleviation of hardship (*raf’ al-ḥaraj*) and the reenactment of the original assessment, i.e. “indifference” (*ibāha*),<sup>71</sup> thus represents both the correct legal practice and the action of mercy towards mankind which is the specific mission of the saint.<sup>72</sup> For *ibāha*, the original condition of man in Paradise, was withdrawn when Adam lost his purity and fell under the burden of the law.<sup>73</sup>

<sup>69</sup> “*Al-kashf al-shayṭānī*”: *Mizān*, I, 15 and 87.

<sup>70</sup> The fact that judgment is passed on the basis of the *ẓāhir* is a “mercy,” according to Sha‘rānī: ibid., I, 36-7 (where the author treats the problem of legally valid decisions based on false evidence). On the differentiation between the legal and religious aspects of the *muftī*’s function (related respectively to *ẓāhir* and *bāṭin*), see B. Johansen, “Legal Literature and the Problem of Change: The Case of Land Rent,” in *Islam and Public Law. Classical and Contemporary Studies*, ed. Chibli Mallat, London: Graham and Trotman, 1993, 29-47, at 32-3.

<sup>71</sup> *Mizān*, I, 24. On Ibn ‘Arabī’s position on this subject, see e.g., C. Chodkiewicz, “La Loi et la Voie,” 102; Chittick, *Imaginal worlds*, 47-8.

<sup>72</sup> In one of his visions, Sha‘rānī drank from the “source of the Throne” (*‘ayn al-‘arsh*), deriving from it mercy towards all human beings: *Latā’if*, I, 62-3.

<sup>73</sup> The relationship between the fall of Adam and the imposition by God of laws upon mankind is the subject of the last chapter of the *Mizān* (II, 182-92). Following ‘Alī al-Khawwāṣ, Sha‘rānī relates Adam’s departure from Paradise to



While adhering to standard juridical notions concerning the question of *rukḥaṣ*, Shaʿrānī gives them a special religious connotation, with reference to Sufi speculations on the relationship between fear and hope, which are supported by the normative and the promissory aspects of the revealed law, respectively.<sup>74</sup> The image of the Pole (*qutb*) “giving nature its due”—which Shaʿrānī elsewhere draws from Ibn ʿArabī—<sup>75</sup> embodies the religious idea that the perfection of the human being involves the full enjoyment of “the good things” that God gave him. The legal assessment of “indifference,” which is “the allotment of the soul,”<sup>76</sup> traces a space in the world where human nature is redeemed and brought back to its original state of freedom.<sup>77</sup>

Modern scholars have given very different assessments of the legal value of Shaʿrānī’s “Balance.” While some have detected in it the seeds of a legal reform oriented toward the unification of the *madhā-*

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the cessation of his state of purity. This explanation is based on an interpretation of Qur. 2:35, according to which the forbidden tree “was a tree which made whoever ate from it defecate. But there must be no faeces in Paradise” (see *The History of al-Ṭabarī*, vol. 1. *General Introduction and from the Creation to the Flood*, tr. F. Rosenthal, Albany 1989, 279; Ibn Kathīr, *Qīṣaṣ al-anbiyāʾ*, ed. ʿAlāʾ ʿAbd al-Wahhāb Muḥammad, Damascus: Markaz al-Ḳitāb liʾl-nashr, n.d., 14). This detail of the story of the Fall was exploited in ascetical literature to express contempt of this world (see, e.g., the *Kitāb dhamm al-dunyā* of Ghazzālī’s *Iḥyāʾ ʿulūm al-dīn*, 4 vols., Beirut: Dār al-Khayr, 2nd ed. 1413/1993, III, 368-9), and was the subject of mystical and alchemical speculations on the different constitutions of the human body in Paradise and on earth (see Aḥmad b. al-Mubārak al-Lamaṭī, *K. al-ibriz min kalām sayyidi ʿAbd al-ʿAzīz al-Dabbāgh*, al-Maktaba al-tawfiqiyya, n. d., 501-3; P. Carusi, “Alchimia islamica e religione: la legittimazione difficile di una scienza della natura,” in *Oriente Moderno*, n.s. 19 (80), 3, 2000, special issue: *Religion versus Science in Islam: A Medieval and Modern Debate*, ed. C. Baffioni, 461-502, at 470 and 474). Voltaire mentioned this story in his irreverent survey of religious myths (*Dictionnaire philosophique*, s. v. “Bien, Tout est bien”), drawing from Syrian Christian sources.

<sup>74</sup> On the relationship between *ʿazīma* and *rukḥaṣ* and fear and hope, see F. Meier, *Abū Saʿīd-i Abū l-Ḥayr (357-440/967-1049). Wirklichkeit und legende*, Acta Iranica 11, Leiden: Brill, 1976, 155 and 164 (quoting from Abū Ṭālib al-Makkī); see also *ibid.*, 165-77, and Kister, “On concessions and conduct,” 90-1.

<sup>75</sup> See V.J. Hoffman, *Sufism, Mystics and Saints in Modern Egypt*, Columbia (S. C.): University of South Carolina Press, 1995, 94, quoting from *al-Yawāqūt waʾl-jawāhir*.

<sup>76</sup> “*Al-mubāh qism al-naḥs*”: *Mizān*, I, 24, from ʿAlī al-Khawwās; cf. Ibn ʿArabī, *Fut.* I, 285-7; 447.

<sup>77</sup> “Which good is greater than the removal of interdiction? For this is paradise in advance” (*fa-ayyu khayr aʿzam min rafʿ al-tahjīr? Fa-inna dhālika janna muʿajjala*): Ibn ʿArabī, *Fut.*, I, 661. Cf. also III, 271, ll. 8-9: in Paradise, revelation (*al-tanazzul*) continues without interruption, “but it does not contain any interdiction (*laysa fihi ḥukm tahjīr jumla wāḥida*), contrary to what happens in this world.”

hib,<sup>78</sup> Joseph Schacht and Chafik Chehata have argued that Shaʿrānī's view of *ikhtilāf* does not depart from the general attitude of the legal tradition, and is fully integrated within a scholastic conception that is ultimately conservative.<sup>79</sup> I agree with the latter view: Shaʿrānī, here, as in his other works, is in agreement with the "accepted Islamic attitude."<sup>80</sup>

Shaʿrānī did not attempt to unify the *madhāhib*. The legal schools are the present manifestation of the unique *sharīʿa* only if they are taken as a whole, and if all their differences continue to coexist.<sup>81</sup> This is remote from the idea of a codification on the basis of *talfīq*, which, for Shaʿrānī, as for jurists in general in the pre-modern period, is an invalid practice. At the same time, Shaʿrānī does *hope* that the "essential" unity of the *madhāhib* will be fully reasserted. But a correct understanding of his "Balance" shows that the *madhāhib* are already like a unique *madhhab*. And, by the same token, the "Balance" makes it possible here and now to return the law to its original mildness.

### *The Mīzān and the Sufi tradition*

In the introduction to the *Mīzān*, Shaʿrānī is more concerned with the faith of the *muqallid* than with his practice. He repeatedly states that the "Balance" will make it possible to transform the formal

<sup>78</sup> See e.g. Winter, *Society and Religion*, 241; in this regard, Winter relies upon the study of A.E. Shmidt ('*Abd al-Vakhkhāb ash-Shaʿrānī i ego kniga Rassypannykh Zhemchuzhin*, St. Petersburg 1914), which I have not seen. N. Perron previously had singled out the "Balance" as a source of inspiration for a reform of the legal system in French Algeria: Cheikh El-Charānī, *Balance de la loi musulmane ou esprit de la législation islamique et Divergences de ses quatre rites jurisprudentiels*, traduit de l'arabe par Dr. Perron, Alger: Imprimerie orientale, 1898. The translator drops the more imaginative parts of the *Mīzān*, which he regards as utterly useless to his proposed end. Though dismissive, his definition of the *Mīzān*'s introduction as "a poem of sorts" ("cette sorte de poème": p. XV) may be retained, in so far as Shaʿrānī aims at changing his readers' perception of the world rather than the world itself.

<sup>79</sup> Chafik Chehata, "L'ikhtilāf et la conception musulmane du droit," in *L'ambivalence dans la culture arabe*, ed. P. Charnay, Paris: Anthropos, 1967, 258-66; EI2, s. v. "Ikhtilāf" (J. Schacht). See also Coulson, *A History of Islamic Law*, 102.

<sup>80</sup> Winter, *Society and Religion*, 5.

<sup>81</sup> *Mīzān*, I, 16 and 22 (from 'Alī al-Khawwās): the believer who follows in his practice the doctrines of the four schools "acts in accordance with the revealed law in its entirety" (*yaʿmalu bi'l-sharīʿa kullihā*); "the perfect revealed law is the sum total of the schools" (*al-sharīʿa al-kāmila jamīʿ al-madhāhib*).

acknowledgement (*qawl bi'l-lisān*) of the equal orthodoxy of the four schools into the superior degrees of knowledge and certainty.<sup>82</sup> When the believer comes to the realization that all of the different opinions derive from the revealed sources, he will avail himself of *rukhaṣ* with an "open heart" (*ma'a inshirāḥ al-qalb*), without any feeling of uneasiness or anxiety.<sup>83</sup>

As with any other article of faith, the link between revelation and rules that are not made explicit in it can be verified by means of either deductive reasoning (*naẓar* and *istidlāl*) or by unveiling and direct vision (*kashf* and *'iyān*).<sup>84</sup> These are the two methods by which it is possible to go back to the *'ayn al-sharī'a*, an ambiguous expression which can be translated as the "source of the *sharī'a*,"<sup>85</sup> but also as "the *sharī'a* itself," or "the *sharī'a* as it really is."<sup>86</sup> The expression "*'ayn al-sharī'a*" can refer both to the literal manifestation of the revelation and to its hidden, or "real," meaning, attainable only through *kashf*.

Revelation is a multi-layered reality the levels of which are schematized in one of the drawings of the *Mizān*.<sup>87</sup> Beneath the "unconditioned revelation" (*al-waḥy alladhī lā yatakayyaf*), God's word manifests itself in the divine Names and Attributes, arranged in five levels or

<sup>82</sup> Ibid., I, 3-5, 10.

<sup>83</sup> Ibid., I, 38.

<sup>84</sup> Ibid., I, 3, 10.

<sup>85</sup> Sha'rānī also uses the term *yanbū'* (*Mizān*, I, 2). The different metaphors that describe the relationship between the revelation and its derivations are illustrated by a series of drawings, or, as Sha'rānī calls them, "similes subject to sensory perception" (*amthila maḥsūsa*) (ibid., I, 38-44). In addition to the image of the source and the water-courses, Sha'rānī uses the image of the tree, whose network of branches and twigs stems from the same trunk and roots, and that of the fishing-net, the fabric of which is interlaced around a central mesh (its "first hole, *al-'ayn al-ūlā*"). Some of these images are based on the observation of everyday life (see in particular his comments on the fishing-net which is familiar to everyone in Egypt: I, 24, l. 16), while others are products of visionary experience (I, 44: on the domed tombs of the four founding Imams and of the Prophet by the river of life in Paradise: "I have not drawn these domes on the basis of my own mind, but rather I have drawn them exactly as I have seen them in one of my visions": "*mā rasamtu hādhihi 'l-qibāb bi-'aqlī wa innamā rasamtuhā 'alā ṣūrat mā ra'aytuhā fī 'l-janna fī ba'd al-waqā'i'*").

<sup>86</sup> *Mizān*, I, 36 (from 'Alī al-Khawwās): "The science of unveiling informs about things as they are in themselves (*fa-inna 'ilm al-kashf ikhbār bi'l-umūr 'alā mā hiya 'alayhi fī nafsihā*); (...) it does not contradict the *sharī'a* in any way, but, to the contrary, it is the *sharī'a* itself (*al-sharī'a bi-'aynihā*)."

See also below, fn. 113.

<sup>87</sup> I, 38.

“presences” that correspond to the five legal assessments.<sup>88</sup> It then passes to the visible world, through the mediation of Gabriel, where it manifests itself diachronically through Muḥammad, the Companions, the eponymous Imams, and, finally, the latter’s followers, the *muqallids* who live in the last stage of history, which will end with the coming of the Mahdī. Each level relates to the preceding one as its explication and determination (*tafṣīl*), while being “synthetic” (*mujmal*) in its relationship to the following level.

In other words, the postulate of *uṣūl al-fiqh*, according to which the *Sunna* is the determination (*tafṣīl*) of the Qur’ān and the *aḥkām ijtihādiyya* are the determination of the *Sunna*,<sup>89</sup> is extended to the metaphysical plane in accordance with the conception of the process of God’s self-revelation that is characteristic of Sufism.

Sha‘rānī’s repeated use of the expression “*‘ayn al-sharī‘a*” has the effect of marking the distance between the present stage of *fiqh* and its meta-historical reality. The “source of the law” is outside the flow of time not only in its metaphysical meaning but also in its literal one, because the direct creative confrontation with the texts took place during the age of absolute *ijtihād*, now elapsed. When the enlightened mystic establishes a direct relationship with the “source of the law,” he is swimming upstream against the flow of history, passing through the fifteen epochs (*adwār*) of the preceding generations of scholars.<sup>90</sup> The relationship with the “source” frees the perfect saint from attachment to a particular school, even if he does not always take advantage of his freedom: ‘Alī al-Khawwāṣ explains the historical affiliation to a legal school of some perfect saints, such as ‘Abd al-Qādir al-Jīlānī or the Shādhilī shaykh Muḥammad al-Ḥanafī (d. 847/1443), by saying that these *walīs* independently reached the same conclusions as the founding Imam did, but followed the school out of “courtesy.”<sup>91</sup> Thus, it is possible for the mystic to have direct access to the “source” and at the same time to be the “follower” of a human authority. In this respect, the situation of the saint is identical to that of the affiliated

<sup>88</sup> This point is detailed by ‘Alī al-Khawwāṣ (I, 20 and 23); cf. Ibn ‘Arabī, *Fut.*, I, 290, and III, 28-30.

<sup>89</sup> *Mizān*, I, 30-1 (quoting Zakariyā al-Anṣārī).

<sup>90</sup> *Ibid.*, I, 23.

<sup>91</sup> *Ibid.*, I, 19-20; as an alternative explanation, al-Khawwāṣ suggests that these shaykhs adhered to the schools only before reaching perfection. See also Winter, *Society and Religion*, 239. On Muḥammad al-Ḥanafī, see Winter, 91 and index; Geoffroy, *Le Soufisme en Égypte et en Syrie*, 22-3 and index.

jurist who finds the textual proofs of legal doctrines by following in the steps of the founding Imams.<sup>92</sup> A key concept here is *muwāfaqa*, i.e., “agreement,” or “correspondence,” which applies both to “exoteric” and “esoteric” kinds of knowledge.<sup>93</sup>

Although the ways of *istidlāl* and *kashf* coincide perfectly, *kashf* goes further back, reaching the higher levels of the “source of the law.” It is in fact only on the higher plane of the *ḥaqīqa*<sup>94</sup> that it is possible to attain the inner certainty that all divergent opinions are not only equally based on revelation, but also come together to form a unique law (*sharī‘a wāḥida*).<sup>95</sup>

At this stage, the methods of *uṣūl al-fiqh* must give way to Sufi hermeneutics. The “strangeness” (*gharāba*) of the “Balance”—a feature proudly claimed by Sha‘rānī—lies precisely in its recourse to the science of inspiration in the context of a scholastic discourse on *ikhtilāf*.<sup>96</sup> Although Ibn ‘Arabī is the main authority quoted in this domain,<sup>97</sup> Sha‘rānī’s practical approach is closer to the enlightened affiliation to the schools of the above-mentioned Sufi shaykhs than it is to the absolute *ijtihād* of the “seal of the saints.”

Spiritual hermeneutics leads to knowledge of the law in its fullness. The root of the “vastness” (*wus‘*) of the law lies in the original richness

<sup>92</sup> See *Mizān*, I, 27-8 (*muftīs* who are “followers of the *mujtahidūn*” have access to the “source of the law”).

<sup>93</sup> On the “correspondence” between the *ijtihād* of the follower and that of the founding Imam, see Suyūṭī, *al-Radd ‘alā man akhlada*, 49, 79, 80, 99, 102. This “correspondence” is precisely what distinguishes conformity (*ittibā‘*) from uninformed acceptance (*taqlīd*): on the distinction between the two, see *ibid.*, 44, 46, 49, 50, 80. What Suyūṭī says in the context of legal literature applies to Sufi literature as well. Thus, ‘Abd al-Karīm Jilī recommends the reading of Ibn ‘Arabī’s books, saying that the student, through his understanding, will share the author’s knowledge as though he had received it from the same source whence the author took it: Jilī, *Marātib al-wujūd wa-ḥaqīqat kull mawjūd*, Cairo: Maktabat al-Jandī, n.d., 8-9; see also the comments on this passage by R. Atlagh, “Le point et la ligne. Explication de la *Basmala* par la science des lettres chez ‘Abd al-Karīm al-Jilī (m. 826 H.),” *Bulletin d’Etudes Orientales* 44 (1992), 161-90, at 162-3.

<sup>94</sup> *Mizān*, I, 34: (...) “*al-ḥaqīqa, allatī hiya a‘lā martabatay al-sharī‘a.*”

<sup>95</sup> *Ibid.*, I, 9.

<sup>96</sup> Sha‘rānī claims that the “Balance” was either validated by al-Khaḍir (*Laṭā‘if*, I, 42) or inspired by him (*Mizān*, I, 17 and 26). The narrative of Sha‘rānī’s first vision of the “source of the law” under the guidance of al-Khaḍir is detailed in his *al-Mizān al-khaḍiriyya* (Geoffroy, *Le Soufisme en Égypte et en Syrie*, 492). He had the first vision of the “Balance” in the year 931/1524 (*ibid.*) or 933/1526 (*Mizān*, I, 22).

<sup>97</sup> See e.g. *Mizān*, I, 12-3, 25-6, 37-8, 47, 97; II, 39.

of meaning of God's word and of the Prophet's word.<sup>98</sup> The exegete moves backwards through the progressive unfolding of the divine word until he reaches its extreme limit of condensation, symbolized by the isolated letters at the beginning of some Qur'ānic suras and by the dot below the *bā'* of the *basmala*.<sup>99</sup>

This condensation of meanings belongs to a level of manifestation of the divine word that is situated above the formulation of the norm and corresponds to a synthetic and non-discriminating form of knowledge.<sup>100</sup> As Ibn 'Arabī says, the science of the *ḥaqīqa* is unlimited because it corresponds to the non-normative aspect of revelation, whereas the *sharī'a*, which is its normative aspect, is limited and discriminating.<sup>101</sup> It is the perspective of the *ḥaqīqa*, as opposed to that of the *sharī'a*, that makes it possible to perceive the "unity of multiplicity" (*ahadiyyat al-kathra*) in every manifestation of the visible world.<sup>102</sup>

Ibn 'Arabī calls this synthetic level of knowledge "*mizān 'āmm*", that is, the universal criterion which permits a validation of all the legal doctrines without rejecting any of them. This criterion "is above the criterion of the interpreters who are [professional] jurists, but not above *fiqh*: for it is identical with the authentic *fiqh* and the pure science."<sup>103</sup> "The universal balance comprehends the norm of the law

<sup>98</sup> On the understanding of the Qur'ān, see *Latā'if*, I, 37 and 51-2; on the "vastness" of the prophetic word: *Kashf*, 6-7; *Latā'if*, I, 38.

<sup>99</sup> *Mizān*, I, 30-1 and 84. On the symbolic meaning of dot below the *bā'*, see Atlagh, "Le point et la ligne"; S. al-Ḥakīm, *al-Mu'jam al-ṣūfī. Al-ḥikma fī ḥudūd al-kalima*, Beirut: Dandara, 1401/1981, 123.

<sup>100</sup> For a definition of this kind of knowledge ("modalité unitive de la connaissance," *jam'*) in relationship to its opposite ("modalité distinctive," *tafṣīl*), see D. Gril, "La science des lettres," in Ibn 'Arabī, *Les Illuminations de la Mecque*, ed. M. Chodkiewicz, Paris: Albin Michel, 1997, 165-282, at 180, 214-5, 217.

<sup>101</sup> Ibn 'Arabī, *Fut.*, III, 151: when God orders the Prophet to ask Him to augment his knowledge—*rabbī zidnī 'ilman* (Qur. 20:114)—He refers to the *'ilm al-ḥaqīqa*, and not to the *'ilm al-sharī'a*. The latter is merely a path to physical happiness in this world as well as in the next, and the best of paths is the shortest and the easiest one: this is why the Prophet used to say: "Leave me alone [i.e., do not ask for any more divine commandments] as long as I leave you alone" (*utrukūnī mā taraktukum*). See also *ibid.*, II, 117: the "increase" (*ziyāda*) referred to in Qur. 20:114 pertains to knowledge based on spiritual vision (*'ilm al-mushāhada*) and not to the knowledge of man's legal duties (*'ilm al-taklīf*)—indeed, "the decrease of it [scil. *taklīf*] is what the prophets wish" (*fa-inna al-naqṣ minhu huwa maṭlūb al-anbiyā'*).

<sup>102</sup> *Ibid.*, II, 563, ll. 15-7.

<sup>103</sup> *Ibid.*, II, 644, ll. 26-7: "*fawqa mizān al-mujtahidīn min al-fuqahā' lā fawqa al-fiqh fa-inna dhālika 'ayn al-fiqh al-ṣaḥīḥ wa' l-'ilm al-ṣarīḥ.*"

without qualification. It is—without dispute—what the scholars of the law relied upon concerning [the determination of] the fundamental legal indicators and of the derived positive norms.”<sup>104</sup>

From the point of view of this “exalted and all-embracing science” (*ilm sharīf ihāfī*),<sup>105</sup> every product of *ijtihād* is correct, even though this inclusive approach does not amount to relativism: as a matter of fact, one who possesses the “universal balance” accepts every doctrine equally, “irrespective of whether it leads to felicity or to wretchedness.”<sup>106</sup>

Besides leading to the synthetic level of knowledge above the normative aspect of revelation, spiritual hermeneutics also confronts revelation as “speech” addressed to mankind in order to establish the legal rules.<sup>107</sup> Applied to legal matters, unveiling is in fact nothing but the sound understanding of this divine speech, giving access to the certain knowledge of the norm. In this way, spiritual knowledge transcends the domain of contemplation by becoming a source of guidance for action.<sup>108</sup> The enlightened vision (*baṣīra*) of the Sufi, as opposed to the probability of the jurist’s assessments (*ghalabat al-ẓann*), not only unveils the inner meaning of rules, but also serves

<sup>104</sup> Ibid., II, 646, l. 5: “*al-mīzān al-‘āmm alladhī yashmulu hukm al-sharī‘a ‘alā al-iṭlāq wa-huwa alladhī istanada ‘alayhi ‘ulamā’ al-sharī‘a bi-lā khilāf fi uṣūl al-adilla wa-fī furū‘ al-aḥkām.*”

<sup>105</sup> Ibid., II, 646, l. 13.

<sup>106</sup> Ibid. “(...) *yusallimu li-kull ṭā’ifa mā hiya ‘alayhi sawā’an qādahum dhālika ilā al-sa’āda aw ilā al-shaqā’.*” It may be observed that the concept of the “norm of the law without qualification” (*al-hukm ‘alā al-iṭlāq*) is parallel to that of *īmān muṭlaq*, the unqualified faith that embraces every possible form of limited belief (*īmān muqayyad*). See e.g. *Fut.*, III, 145, where *īmān muṭlaq* is mentioned together with the knowledge of the “penetration of the truth in the legal norms, notwithstanding the differences amongst them, and [the knowledge] that all of them are truth from the Lord” (*sarayān al-ḥaqq fī ‘l-aḥkām ‘alā ikhtilāfihā wa-annahā kullahā ḥaqq min al-rabb*). Now, even though every belief system and legal system represents an aspect of God, they are not on an equal footing in the perspective of historical time, to which *taklīf* belongs: see al-Ḥakīm, *al-Mu‘jam al-sūfī*, 479; Chittick, *Imaginal Worlds*, 146, 154-60.

<sup>107</sup> On the special reception of the *khiṭāb al-aḥkām al-mashrū‘a*, or *khiṭāb ilāhī*, enjoyed by the most perfect saints, see *Fut.*, I, 150, ll. 14-5, and III, 332, l. 17. The latter is tr. by J.W. Morris, “The Mahdī’s Helpers,” in Ibn ‘Arabī, *Les Illuminations de la Mecque*, ed. M. Chodkiewicz, Paris: Sindbad, 1988, 119-47, at 127.

<sup>108</sup> The distinction between knowledge of the non-normative and normative aspects of revelation may be compared to the distinction between the theoretical and practical intellect of the Prophet, on which see J.R. Michot, *La destinée de l’homme selon Avicenne. Le retour à Dieu (ma‘ād) et l’imagination*, Leuven: Peeters, 1986, 127-30 and 134.

as the basis for issuing legal opinions. The saint—who “deserves to be called *faqīh* more than the exoteric scholars do”—thus takes upon himself a public function, as follower and heir to the Prophet.<sup>109</sup>

This inspired knowledge of the law is a divine “notification” (*taʿrīf*), superior to *ijtihād*,<sup>110</sup> which allows its recipient to discern the correct legal assessment as well as the authenticity of the *ḥadīth*. It is experienced by the perfect heir to the Prophet as a reenactment of the original revelation,<sup>111</sup> and is in fact one of the main features of the properly “prophetic” character of sainthood, and also of its messianic character, for the *taʿrīf* of the heir corresponds exactly to the reception of the law on the part of the Mahdī.<sup>112</sup>

Some characteristic features of this fundamental aspect of Ibn ʿArabī’s theory of sainthood are also found in Shaʿrānī’s work. Thus, according to Shaʿrānī, unveiling can lead to knowledge of the “reality” of the law “as it really is” (*al-amr ʿalā mā huwa ʿalayhi fī nafsīhi*).<sup>113</sup> This kind of knowledge is the privilege of the perfect heir of Muḥammad, who becomes the associate of the Prophet in receiving the *ḥadīth* directly from the Qurʾān<sup>114</sup> and who is informed by the Prophet himself about the authenticity of *ḥadīth*.<sup>115</sup>

<sup>109</sup> Ibn ʿArabī, *Fut.*, I, 280: (...) “*fa-ism al-faqīh awlā bi-ḥādhihi al-tāʾifa min ṣāhib ʿilm al-rusūm (...) wa-huwa alladhī yadʿū ilā Allāh ʿalā baṣīra kamā yadʿū rasūl Allāh (ṣ.) ʿalā baṣīra [see Qur. 12:108] lā ʿalā ghalabat al-ẓann kamā yaḥkumu ʿālim al-rusūm, fa-shattān bayna man huwa fī-mā yuḥḍir bihi wa-yaqūluhu ʿalā baṣīra (...) wa-bayna man yuḥḍir fī dīn Allāh bi-ghalabat ẓannihi.*”

<sup>110</sup> Cf. *Fut.*, III, 413, l. 31 (“*huwa maqām aʿlā min al-ijtihād*”). This passage is quoted and commented upon by Ibrāhīm al-Kūrānī, *Maslak al-taʿrīf bi-taḥqīq al-taklīf*, Damascus, Maktabat al-Asad al-waṭaniyya, Ms. no. 7757, ff. 88a-96b, at f. 95a.

<sup>111</sup> *Fut.*, I, 150-1; III, 70 (tr. by C. Chodkiewicz, “La Loi et la Voie,” 115); III, 270 (tr. ibid., 84); see also Mansiyya, “al-*Ijtihād* kamā yarāhu Ibn ʿArabī,” 138-42.

<sup>112</sup> See Morris, “The Mahdī’s Helpers”; idem, “Ibn ʿArabī’s ‘Esotericism’: The Problem of Spiritual Authority.” The *ḥukm* established by the inspired interpreter is identical to that which would be established by the Messenger of God if he were alive (*Fut.*, III, 271, l. 2: “*law kāna al-rasūl ḥayyan la-ḥakama bihi*”). The same applies to the Mahdī (III, 327, l. 28, tr. Morris, 121: “*law kāna rasūl Allāh la-ḥakama bihi*”).

<sup>113</sup> *Mizān*, I, 25; see also *al-Kibrīt al-aḥmar*, 105, quoting from *Fut.*, II, 563: “*fa-ʿayn al-sharīʿa wujūd ʿayniḥā wa-ḥaqīqatuhā mā yanzilu manzilat al-shuhūd al-baṣārī wa-l-wujūd al-ḥissī al-nāfi li-l-shakk jumlatan.*”

<sup>114</sup> *Mizān*, I, 18, from ʿAlī al-Khawwās: “*ṣāra yaʿrifu jamīʿ manāziʿ jamīʿ al-aḥādīth al-wārīda ʿan rasūl Allāh wa-yaʿrifu min ayna akhadhahā al-shārīʿ min al-Qurʾān al-ʿaẓīm (...) wa-hiya manqaba ʿaẓīma li-l-kāmil ḥaythu ṣāra yushāriku al-shārīʿ fī maʿrifat manāziʿ aqwālihi ṣūratan min al-Qurʾān al-ʿaẓīm bi-ḥukm al-*



As we have seen in the preceding section, Shaʿrānī says that, after the settling down of the schools of law, nobody went beyond the rank of *ijtihād mutlaq muntasib*, even though he “believes” that the rank of the founding Imams can be reached at any time. He then adds that according to “someone,” this rank is at present not attainable through legal reasoning, but only through unveiling.<sup>116</sup> It may be argued that this “someone” expresses Shaʿrānī’s own opinion on this matter, and that the kind of inspired *ijtihād* just described is precisely what he refers to when speaking of his “belief” in the continuous existence of *mujtahids*.<sup>117</sup> In such a context, the issue of *ijtihād* clearly becomes a religious question, associated with hope in the renewal of revelation. Messianic hope and belief in the continuous opening of the so-called “gate of *ijtihād*” are explicitly linked by Shaʿrānī (which is not surprising for someone who considers that every real confrontation with revelation is a reenactment of its reception):

When the Mahdī comes forth, the followers of the Imams living in his time will brood a secret enmity toward him, as soon as they will see that he is at variance with the doctrines of their Imams, because they believe that after [the death of] their Imams God will not bring into existence anyone whose knowledge is of a higher rank than theirs.<sup>118</sup>

*irth lahu* (ṣ.)” On the relationship between the revelation (*wahy*) of the Prophet and the inspiration (*ilhām*) of his follower see *Laṭāʾif*, I, 123.

<sup>115</sup> *Mizān*, I, 44.

<sup>116</sup> *Ibid.*, I, 31.

<sup>117</sup> See also Geoffroy, *Le Soufisme en Égypte et en Syrie*, 487: “Pour Shaʿrānī la présence du *mujtahid* à toute époque au sein de la Communauté est aussi nécessaire que celle de l’Esprit (*al-rūh*) qui insuffle la vie au monde (*al-ʿālam*): si le premier disparaît, le second meurt d’inanité” (referring to an unpublished work by Shaʿrānī: *al-Ajwiba al-marḍiyya ‘an a’immat al-fuqahā’ wa’ l-ṣūfiyya*).

<sup>118</sup> *Kashf al-ghumma*, 9: “*idhā kharaja... yuʿādīhi sirran muqallidat al-ʿulamā’ al-mawjūdūn fī zamanihi hīna yarawnahu yadhabu ilā khilāf mā dhahaba ilayhi a’immatuhum li-i’tiqādihim anna Allāh taʿālā lā yūjīdu baʿda a’immatihim aḥadan yaʿlūhum fī ‘l-ilm.*” This passage is an almost literal quotation, albeit unacknowledged, from Ibn ʿArabī, *Fut.*, III, 327, ll. 28-9 and 336, ll. 10-4 (tr. Morris, “The Mahdī’s Helpers,” 121-2 and 139-40). Ibn ʿArabī’s wording of the most relevant passage is as follows (tr. Morris, 139-40): “(...) they [scil. the *muqallids*] believe that the period of the people of *ijtihād* has ended (long ago), that there remains no *mujtahid* in the world and that after the death of their (founding) imams God has not brought into existence in the world anyone with the rank of *ijtihād*” (*li-annahum yaʿtaqidūna anna zamān ahl al-ijtihād qad inqataʿa wa-mā baqiya mujtahid fī ‘l-ālam wa-anna Allāh lā yūjīdu baʿda a’immatihim aḥadan lahu darajat al-ijtihād*). On the eschatological dimension of discussions on *ijtihād*, see also W.B. Hallaq, “On the Origins of the Controversy about the Existence of Mujtahids and the Gate of Ijtihad,” *Studia Islamica* 63 (1986), 129-41.

(...) Until, with the coming of the Mahdī, [the obligation] to adhere to the opinions of the representatives of the legal schools who came before him will become null and void, in accordance with the explicit statement of the people of unveiling. The Mahdī will know through inspiration (*yulham*) the assessment in keeping with the *sharīʿa* of Muḥammad, with such a correspondence that the Messenger of God, were he alive, would confirm all the assessments established by him (...). Then, when Jesus will descend, the [establishment of] assessments will transfer to another status, for Jesus will know the *sharīʿa* of Muḥammad through revelation (*yūḥā*) from the mouth of Gabriel.<sup>119</sup>

Besides being an object of religious hope, the possibility of an inspired and certain knowledge of the law is also a source of serious juridico-political problems, because this certainty is in principle incompatible with *ijtihād* and with the differences of opinion deriving from it.<sup>120</sup> Shaʿrānī is thus eager to emphasize that even sound *kashf* (for not every unveiling is sound) is not a source of obligation.<sup>121</sup>

This is not a departure from the teaching of Ibn ʿArabī, who places important restrictions on the saint's right not only to impose his understanding on others but also to dispute with his opponents.<sup>122</sup>

<sup>119</sup> *Mizān*, I, 39: "(...) *ilā an yakhrūja al-Mahdī ('alayhi 'l-salām) fa-yabṭulu fī 'aṣrihi al-taqayyud bi'l-'amal bi-qawl man qablahu min al-madhāhib kamā ṣarraḥa bihi ahl al-kashf wa-yulhamu al-ḥukm bi-sharīʿat Muḥammad (ṣ.) bi-ḥukm al-muṭābaqa bi-haythu law kāna rasūl Allāh (ṣ.) mawjūdan la-aqarrahu 'alā jamīʿ aḥkāmihī kamā ashāra ilayhi fī ḥadīth dhikr al-Mahdī bi-qawlihi: yaqfū atharī lā yukhtī'u; thumma idhā nazala 'Īsā ('alayhi 'l-salām) intaqala 'l-ḥukm ilā amr ākhar wa-huwa annahu yūḥā ilā 'l-sayyid 'Īsā ('alayhi 'l-salām bi-sharīʿat Muḥammad (ṣ.) 'alā lisān Jibrīl ('alayhi 'l-salām).*" Cf. Ibn ʿArabī, *Fut.*, III, 335 (tr. Morris, 137); idem, *Fuṣūṣ al-ḥikam*, with the commentary of ʿAbd al-Razzāq al-Qāshānī, Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1407/1987, 248-50.

<sup>120</sup> The problems posed by the relevance of inspiration in legal matters have been addressed not only by Sufis but also by legal theorists. See É. Chaumont, "La problématique classique de l'*ijtihād* et la question de l'*ijtihād* du Prophète: *ijtihād*, *waḥy* et '*isma*,'" *Studia Islamica* 75 (1992), 105-39. Sunni legal thought is an important background of Sufi discussions, which has been largely neglected by modern scholars due to the tendency to study Sufi conceptions of authority in reference to the Shiʿi tradition. The relationship between *waḥy* and *ijtihād* is also discussed by a number of later Sunni jurists with reference to the question of the *sharīʿa* in the messianic age: see Suyūṭī, *Kitāb al-i'lām bi-ḥukm 'Īsā ('alayhi 'l-salām* (in *al-Ḥawī li'l-fatāwī*, ed. M. Muḥyī 'l-Dīn ʿAbd al-Ḥamīd, Cairo 1959, II, 277-99); *EI*2, s. v. "Mahdī," 1226a (W. Madelung).

<sup>121</sup> *Mizān*, I, 10. Shaʿrānī wrote two treatises against the abuse of "inspiration" in legal matters: *Hadd al-ḥusām 'alā man awjaba al-'amal bi'l-ilhām* and *al-Tatabbu' wa'l-faḥṣ 'alā ḥukm al-ilhām idhā khālafa al-naṣṣ*, see *EI*1, s. v. "Shaʿrānī" (J. Schacht), no. 50 and 51 of the bibliography given in the article.

<sup>122</sup> See Morris, "Ibn ʿArabī's 'Esotericism': The Problem of Spiritual Authority," 51 fn. 28, and 58. See also *Fut.*, I, 151, ll. 6-7, and 252, ll. 15-20.

This means that the status of *kashf* in the public domain, at least until the coming of the Mahdī, does not differ from that of “ordinary” *ijtihād*.<sup>123</sup> This is perhaps the reason why it does not really matter whether or not *kashf* is formally acknowledged among the *uṣūl al-fiqh*.<sup>124</sup> Although unveiling provides the interpreter with inner certainty, its results “apparently” can be identical to those of *ijtihād*.<sup>125</sup> It is precisely because of the exterior resemblance of the perfect heir of the Prophet to traditional scholars that his spiritual standing remains “unknown to the public” (*majhūl fī ‘l-‘umūm*), unlike that of the saints who perform visible miracles.<sup>126</sup>

As we will see below, Sha‘rānī parts company with Ibn ‘Arabī on the fundamental issue of the distinction between revealed law (what Ibn ‘Arabī calls “the true Muḥammadan *shar‘*”—*al-shar‘ al-ḥaqīqī al-muḥammadī*) and the historically developed systems of Islamic law.<sup>127</sup> Ibn ‘Arabī clearly states that not every qualified interpreter is right. “The matter as it really is in itself” (*mā huwa al-amr ‘alayhi fī nafsihī*) can either be found or missed through the ordinary means of the *mujtahid*, even if it is impossible to determine who is right and who is wrong among the supporters of two alternative solutions. In case of error, the *mujtahid*’s assessment is legitimate and confirmed (*ḥukm muqarrar*), but it does not coincide with the “divine assessment” (*ḥukm ilāhī*) as it is known by God and His Messenger.<sup>128</sup>

<sup>123</sup> *Fut.*, I, 151, l. 6: “*ḥukmuhum* [i.e. that of the perfect saints] *ḥukm al-mujtahid*.”

<sup>124</sup> See *Fut.*, II, 79, ll. 25-6, where Ibn ‘Arabī praises the ‘*ulamā*’ who deny the possibility of an inspired knowledge of the law, thus preventing the claims of dangerous pretenders; such a denial is legitimate in so far as it is the result of *ijtihād*, and consequently does not imply the categorical rejection of the opposite view.

<sup>125</sup> See e.g. *Fut.*, I, 224, l. 33 (“*wajadnāhā [al-aḥkām] ‘inda ‘ulamā’ al-rusūm kamā hiya ‘indānā*”). See also *Fuṣūṣ al-ḥikam*, 248: the saint who “takes” a legal rule directly from the “source”, or receives the confirmation of the authenticity of a particular *ḥadīth* through the vision of the Prophet, is apparently only a “follower” of the Prophet. To express the subtle difference, Qāshānī quotes the following verse: “I have two intoxications and the drinking companions one: that is something for which I alone have been singled out” (*lī sakratān wa-lī ‘l-nadmān wāḥida—shay’ khuṣṣistu bihi min baynahum waḥdī*).

<sup>126</sup> *Fut.*, IV, 50.

<sup>127</sup> Morris, “The Mahdī’s Helpers,” 137; and idem, “Ibn ‘Arabī’s ‘Esotericism’: The Problem of Spiritual Authority,” 48 and 54 fn. 36.

<sup>128</sup> *Fut.*, II, 477, l. 31, and II, 165, tr. by C. Chodkiewicz, “La Loi et la Voie,” 105-6. See also Mansiyya, “al-Ijtihād kamā yarāhu Ibn ‘Arabī,” 132; Ghurāb, *al-Fiqh ‘inda al-Shaykh al-Akbar*, 56. Moreover, considering *ijtihād* always to be open, Ibn ‘Arabī concedes that both interpreters can be wrong about a given question

The “relative” error of the *mujtahid* who, according to the well-known saying, merits only one reward, amounts to adding to the law something that does not originally belong to it. Such an addition can be accepted only in so far as it is not imposed on society at large, and this is why the respect for *ikhtilāf* is so important in Islamic law. For the “mercy” of pluralism allows for the preservation of the original ease of the law after it has been encumbered by the development of legal systems.<sup>129</sup>

In other words, “erring” amounts to law-making (*tashrīʿ*).<sup>130</sup> *Tashrīʿ* is fully legitimate because exoteric scholars are heirs to the Prophet, and their activity represents one aspect of the continuation of revelation (*wahy*).<sup>131</sup> But *tashrīʿ* produces a man-made law, clearly distinguished from divinely revealed law.<sup>132</sup>

To sum up: whereas from the point of view of non-normative revelation every product of *ijtihād* is correct, the same does not hold with respect to the interpretation of God’s normative speech. The tension between tolerance of partial truths and certain knowledge of the truth also characterizes Ibn ‘Arabī’s view of the other revealed religions: if all of these come equally from God, the “pure religion” is none the less identified with that of Muḥammad, which is the truly universal religion precisely because, rather than invalidating the preceding revelations, it includes all of them within its fold.<sup>133</sup> In a similar manner, the full acceptance of *ikhtilāf al-madhāhib* goes hand in hand with the assertion of the absolute authority of the unique being who is truly qualified to transcend their boundaries.

This ambivalence opened the way to very different readings and adaptations of Ibn ‘Arabī’s legal thought. Thus, while the inspired knowledge of the law could offer an ideological basis to mahdist

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(*Fut.*, I, 287, l. 4). On this debate in the legal literature, see Chaumont, “Tout chercheur qualifié dit-il juste?”

<sup>129</sup> *Fut.*, II, 685.

<sup>130</sup> *Ibid.*, III, 414, ll. 2-3: “*wa-ammā ahl al-ijtihād fa-aḥkāmuhum tashrīʿ al-sharʿ idhā akhtaʿū.*” See also Mansiyya, “al-Ijtihād kamā yarāhu Ibn ‘Arabī,” 133 fn. 55, 134, 138-9.

<sup>131</sup> *Fut.*, II, 261, ll. 25-6 (“*fa’l-mujtahidūn min ‘ulamā’ al-sharīʿa warathat al-rusul fī ‘l-tashrīʿ wa-adillatuhum taqūmu lahum maqām al-wahy*”); for further references, see Mansiyya, 127.

<sup>132</sup> Ibn ‘Arabī goes so far as to extend the use of the term *nāmūs* (i.e. the human *nomos* as opposed to the prophetic law) to the laws established in the Islamic community on the basis of *ijtihād*: *Fut.*, II, 117, l. 31; al-Ḥakīm, *al-Muʿjam al-ṣūfī*, 478 (quoting *Fuṣūṣ al-ḥikam*).

<sup>133</sup> See al-Ḥakīm, *al-Muʿjam al-ṣūfī*, 479-82.

movements and to other movements that rejected existing authority, the metaphysical validation of *ikhtilāf*, which enhances a pluralist view of orthodoxy, facilitated the accommodation of Ibn ‘Arabī’s legal thought to the religious culture of many Sunni jurists loyal to their *madhhab*, especially in the Ottoman period.

The complex relationship between pluralism and certainty is also reproduced in Sha‘rānī’s writings, which helps to explain how he could be used in the nineteenth century to support a wide range of opposing religious currents. But whereas the emphasis in the *Kashf al-ghumma* is on the opposition between revealed (or inspired) law and legal reasoning, the *Mizān* clearly gives prominence to the acceptance of *ikhtilāf*, which, in turn, entails the acceptance of the authority of the community and of the scholars who represent it.

In his attempt to enlist Sufi notions in order to strengthen the authoritativeness of the legal schools, Sha‘rānī makes skillful use of the art of quotation. Thus, to state the consensus of the *ahl al-kashf* on the legitimacy of *ijtihād* and the ensuing differences of opinion, he quotes a passage from the *Futūḥāt* in which Ibn ‘Arabī says that the rule worked out by way of *ijtihād*, whether correct or not, having been legitimated by the *shar‘*, which is God’s law (*ḥukm Allāh*), “comes to be a divine law through God’s confirmation of it.”<sup>134</sup>

Sha‘rānī concludes that “this discourse suggests the linkage of all the doctrines of the *mujtahids* to the texts of the Lawgiver, as though these doctrines were texts of the Lawgiver.”<sup>135</sup>

<sup>134</sup> “*Ṣāra shar‘an li’ l-Lāh bi-taqrīr Allāh iyyāhu*”: *Mizān*, I, 26, l. 6; cf. *Fut.*, I, 348 (“*fa-huwa shar‘ Allāh bi-taqrīrihi iyyāhu*”). As we have seen above, Ibn ‘Arabī clearly distinguishes the *ḥukm muqarrar* from the *ḥukm ḥaqīqī*. Every legitimate assessment belongs in some way to the *shar‘*, without being identical to the divine law revealed through Muḥammad. Even the religious laws of the *dhimmīs* can be regarded as a part of the Islamic revealed law, due to the fact that the Prophet confirmed them: see *Fut.*, I, 225 (“*wa-law kāna mimman yu‘addī al-jizya la-qulnā inna al-shar‘ al-muḥammadī qad qarrara lahu dīnahu mā dāma yu‘fī al-jizya wa-hādhihi mas‘ala daqīqa fī ‘umūm risālatihi wa-innahu bi-zuhūrihi lam yabqa shar‘ illā mā sharra‘ahu wa-mimmā sharra‘a taqrīruhum ‘alā shar‘ihim*”); I, 553 (“*wa-inna akhdh al-jizya minhum qad yakūnu taqrīran min al-shārī‘ lahum dīnahun alladhī hum ‘alayhi*”); II, 592 (“*inna dīnahun mashrū‘ la-hum bi-shar‘inā ḥaythu qarrarahum ‘alayhi*”).

<sup>135</sup> *Mizān*, I, 26, l. 7: “*fī hādihā al-kalām mā yush‘iru bi-ilḥāq aqwāl al-mujtahidīn kullihā bi-nuṣūṣ al-shārī‘ wa-ja‘l aqwāl al-mujtahidīn ka-annahā nuṣūṣ li’ l-shārī‘*.” Further on, Sha‘rānī inserts a similar statement into a paraphrase of another passage by Ibn ‘Arabī (even though the debt is not acknowledged): *Mizān*, I, 26, l. 15 (“*qāma ijtiḥāduhum maqām nuṣūṣ al-shārī‘ fī wujūb al-‘amal bihi*”). *Mizān*, I, 26,

His conclusion, however, blurs the boundaries between revelation and humanly constructed *fiqh*, and it runs directly counter to Ibn 'Arabi's intention, which was more faithfully followed in the *Kashf al-ghumma*.<sup>136</sup> By the same token, Sha'rānī subscribes to the theory of authority developed in the law schools to account for the historical fact of *taqlīd*.<sup>137</sup> Accordingly, this passage of the *Mizān* would later be used in a polemical treatise against Wahhābī claims to *ijtihād*.<sup>138</sup>

Sha'rānī goes so far as to suggest that none of the opinions of the Imams is the result of human reasoning, even if they seem to be based on *qiyās*.<sup>139</sup> Thus, while paying lip-service to the Zāhirī rejection of *qiyās*,<sup>140</sup> he voids the principle of its effectiveness. Precisely because he is not a *mujtahid*, Sha'rānī does not need a coherent methodology, and in his personal way of dealing with controversial issues he clearly

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ll. 12-24 is a close paraphrase of *Fut.*, III, 400, where the sentence quoted is not found.

<sup>136</sup> *Kashf*, 5: "Even though the *mujtahids* are given permission to legislate, no one has the obligation to act upon their legislation" (*wa-innahu wa-law udhina lahum bi'l-tashrī' lā yajibu 'alā aḥad al-'amal bi-mā sharra'ūhu*).

<sup>137</sup> See Calder, "al-Nawawī's Typology of *Muftīs*," 155-6: Ibn al-Ṣalāḥ, quoted by Nawawī: "The texts of the *madhhab* of the imām of the *muftī* are in relation to the *muftī* like the texts of the Lawgiver to the independent *mujtahid*."

<sup>138</sup> Dāwūd b. Sulaymān al-Baghdādī al-Naqshbandī al-Khālidi (1816-1882), *Ashadd al-jihād fī ibtāl da'wā al-ijtihād*, Baghdad 1305/1888 (repr. in *al-Minḥa al-wahbiyya fī radd al-wahhābiyya*, ed. Hüseyin Hilmi Işık, Istanbul 1979), 12; for other quotations from the *Mizān*, see *ibid.*, 19-20, 26-8. This treatise is a refutation of Indian claimants to *ijtihād*, but it contains many polemical references to Muḥammad b. 'Abd al-Wahhāb and his followers in Najd: see *ibid.*, 25, 29-30, 40, 43. See also Peters, "Idjtiḥād and taqlīd in 18th and 19th Century Islam," 135 fn. 10; H. Algar, "A Brief History of the Naqshbandī Order," in *Naqshbandis. Cheminements et situation actuelle d'un ordre mystique musulman*, ed. M. Gaborieau, A. Popovic, T. Zarcone, Istanbul-Paris Isis, 1990, 3-44, at 31.

<sup>139</sup> *Mizān*, I, 15: Sha'rānī reports the well-known story according to which Ja'far al-Ṣādiq censured Abū Ḥanīfa for his recourse to *ra'y* (see Goldziher, *The Zāhirīs*, 14-5), but he leaves the last word to Abū Ḥanīfa. In Sha'rānī's version, after mentioning Qur. 6:38 ("Nothing have we omitted from the Book"), the jurist retorts: "What we have said is not reasoning by analogy in itself, but only according to those to whom God did not give the understanding of the Qur'ān" (*fa-laysa mā qulnāhu bi-qiyās fī nafs al-amr wa-innamā huwa qiyās 'inda man lam yu'ṭihi Allāh t. al-fahm fī 'l-Qur'ān*). For the quite different use of the same Qur'ānic verse by Ibn Ḥazm, see Goldziher, *The Zāhirīs*, 93-4 fn. 3. On differences in hermeneutic approach between Ibn Ḥazm and Sha'rānī, see also Winter, *Society and religion*, 249.

<sup>140</sup> The sources quoted by Sha'rānī include Ibn Ḥazm's *Muḥallā* and Ibn 'Arabi's abridgement of this book (*Mizān*, I, 62). Ibn Ḥazm is mentioned also at *ibid.* I, 15, 33, 48, 49. See also above, fn. 56.

leans towards accepting the view that every *mujtahid* is correct.<sup>141</sup> For his real concern is to find a meaning for each legal opinion, and this quest for meaning is not limited to rules, but includes also the methods by which they are derived.

The blurring of boundaries is given a finishing touch by the extension of the inspired knowledge of the *awliyā'* to the Imams: the latter also know the *aḥkām* through unveiling and the direct encounter with the Prophet, for the simple reason that they cannot be excluded from prerogatives that are accessible to so many "modern" saints.<sup>142</sup> This apparently naïve argument accounts for an ideological development already well-established in Sha'rānī's time, namely, the interaction between "esoteric" and "exoteric" models of authority, whereby the figure of the spiritual master and that of the professor of law came to influence each other.<sup>143</sup> The important role played by the "esoteric" model of authority in the polemical discourse of post-classical legal scholars is attested by the fact that Sha'rānī's contemporary, Ibn Ḥajar al-Haytamī, a Shāfi'ī jurist well-disposed towards Sufism, issues a warning to those who doubt that the founding Imams partook in the '*ilm al-bāṭin*, characterizing such an opinion as a "devilish seduction."<sup>144</sup> The passage of the *Mizān* in which Sha'rānī says that the Imams obtain their knowledge by way of both *ḥaqīqa* and *sharī'a* would become a standard argument for nineteenth-century scholars who rejected the claims to *ijtihād* advanced by both Sufis and anti-Sufis.<sup>145</sup> Sha'rānī acknowledges that this point is far from accepted,

<sup>141</sup> Sha'rānī often touches upon the question of the *iṣāba* of the *mujtahid*: he says five times that both *mujtahids* are right (*Mizān*, I, 4, 5, 9, 17, 18) and three times that only one of them is right (I, 3, 9, 23), and he concludes that these alternative solutions are equally valid (I, 25-6 and 26-7). A similar latitude characterizes Ibn Ḥajar al-Haytamī's position on the same subject: see Wiederhold, "Legal doctrines in conflict," 255-6.

<sup>142</sup> *Mizān*, I, 35-6; for an example of the unveiling of Abū Ḥanīfa and Abū Yūsuf, see I, 88 (on the purity of the water that has been used for the ritual ablution).

<sup>143</sup> See F. Meier, "Ḥurāsān und das Ende der klassischen Šūfik," in *Atti del convegno internazionale sul tema: La Persia nel medioevo*, Roma: Accademia Nazionale dei Lincei, 1971, 545-570, at 562-3 and 567-8.

<sup>144</sup> Ibn Ḥajar al-Haytamī, *al-Fatāwā al-ḥadīthiyya*, Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1409/1989 (3rd ed.), 324-5 ("fa-ḥdhar an tusī'a al-zann bi-aḥad min mithl ūlā'ika [al-a'imma] wa-yusawwila laka al-shayṭān aw man istawlā 'alayhi mimman lam yahtadi bi-nūr al-'ilm anna a'immat al-fuqahā' wa'l-mujtahidīn lam yablughū tilka al-marātib"). See also Geoffroy, *Le Soufisme en Égypte et en Syrie*, 487 fn. 58, and *ibid.*, 36, on the hagiographies of Nawawī written by Suyūṭī and Sakhāwī.

<sup>145</sup> The relevant passage (*Mizān*, I, 35-6) is quoted in the *fatwā* against Muḥammad b. 'Alī al-Sanūsī issued by Muḥammad b. Aḥmad 'Illaysh (d. 1881)

not only among the exoteric followers of the founding Imams, but, more importantly, even among the *ahl al-kashf*, and he may have quoted his own *Kashf al-ghumma* as a proof text for the opposite view.<sup>146</sup> As a matter of fact, this is perhaps the most remarkable point of disagreement in this text which aims at reconciling every possible dissension. The controversial issue is not the inclusion of the Imams among the *awliyā'*, an idea that has a long history in the Sufi tradition,<sup>147</sup> but the elimination of the epistemological distinction between the certainty of inspiration and the probable knowledge of *ijtihād*.

As Sha'rānī suggests in the *Mizān*, not even the variety of legal opinions is the result of probable knowledge: the Imams wanted this plurality on the basis of *kashf*, just as God wanted to manifest Himself through a multiplicity of successive revelations.<sup>148</sup>

The realization of the essential unity behind the schools' apparent multiplicity lifts the veil that hides the ultimate identity between the *fiqh* at the present stage of its historical development and the meta-historical "source of the law." In fact, the return of the "Law itself" in the fullness of time is very similar to the present state of law: Sha'rānī's own messianic law is a certain knowledge that does not eliminate the plurality of the schools' doctrines, but only the controversies amongst their representatives.<sup>149</sup>

(see Vikør, *Sufi and Scholar on the Desert Edge*, 254), and in the refutation of the Wahhābis written by Dāwūd b. Sulaymān al-Baghdādī (see idem, *Ashadd al-jihād fī ibtāl da'wā al-ijtihād*, 26-9). See also Peters, "Idjtiḥād and taqlīd in 18th and 19th Century Islam," 138 fn. 21.

<sup>146</sup> *Kashf*, 4: "ghāyat mā istanbāṭahu al-ʿulamāʾ al-ẓann lā al-yaqīn"; 12: "wa-qad akhbarānī al-hātif (ʿalayhi 'l-salām) anna hādhā 'l-mizān lam yazfar bi-hi aḥad min al-tābiʿīn wa-lā aḥad min al-aʿimma al-mujtahidīn bi-dalīl mā nuqila ʿan al-tābiʿīn min al-khilāf wa-mā naṣabahu al-mujtahidūn baynahum min al-munāẓarāt (...) wa-law ʿalimū hādhā 'l-mizān lam yaqaʿ baynahum khilāf." Juridical disputes, regarded here as a sign of imperfect knowledge, are justified by Sha'rānī in *Mizān*, I, 20.

<sup>147</sup> Shāfiʿī has been regarded as the embodiment of the exemplar ʿālim ʿāmil since the classical period of Sufism: see J.-J. Thibon, "Hiérarchies spirituelles, fonctions du saint et hagiographie dans l'oeuvre de Sulamī," *Cahier des Annales Islamologiques* 19 (2000), special issue: *Le saint et son milieu, ou comment lire les sources hagiographiques*, ed. R. Chih and D. Gril, 13-31, at 27-30. Ibn ʿArabī reports a saying attributed to al-Khaḍir according to which Shāfiʿī is a saint belonging to the category of the *awtād* (lit. "pegs"): *Fut.*, II, 168.

<sup>148</sup> *Mizān*, I, 35.

<sup>149</sup> In the *Kashf al-ghumma*, 9, Sha'rānī claims that a "voice" (*hātif*) announced to him that his book would be preserved until the coming of the Mahdī as the restorer of the "pure religion" (*al-dīn al-khālīs*). At that time, the Mahdī's companions will find in Sha'rānī's book the solutions to many legal questions,



In other words, Shaʿrānī does not cease to be a hagiographer even when writing about legal methodology. In both cases, his task is to show the wonder of things that every human being has under his eyes. In his world, where any “rightly guided person” is in some way a *mahdī*,<sup>150</sup> and the Pole can be seen selling *fūl* on a street corner,<sup>151</sup> flashes of apocalyptic awareness spring out from the pages of standard legal textbooks.<sup>152</sup>

The accomplished Sufis are edifying examples for ordinary believers also in the domain of law. The contemplation of the “pure source of the law” that makes it possible to perceive the essential unity of the

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and will thus be able to dispense with consulting the Mahdī. Therefore, it may be argued, the *Kashf al-ghumma* faithfully agrees, in its author’s view, with the “pure religion.” And since the book includes all the traditions on which are based the different opinions of the ‘*ulamā*’, the actual number of the rules which will be abrogated by the Mahdī could be reduced considerably. Shaʿrānī’s description of the “messianic law” differs, further, in a significant detail from the passage of the *Futūhāt* which is its main source (see above, fn. 118): whereas Ibn ‘Arabī says that the Mahdī “will remove the different schools of law from earth” (*yarfaʿu l-madhāhib min al-arḍ*) (*Fut.*, III, 327, l. 28; tr. Morris, 121), Shaʿrānī says that he will remove “controversy and subjective opinions” (*yarfaʿu l-khilāf wa l-ārā min al-arḍ*). Finally, Shaʿrānī mentions the opinion of some *ahl al-kashf* according to whom the Ḥanafī *madhhab* will be the last to be extinguished (*Mizān*, I, 24: “*kamā kāna madhhab al-imām Abī Ḥanīfa awwal al-madhāhib al-mudawwana tadwīnan fa-kadhālika yakūnu ākhirah inqirāḍan*”; cf. *Kashf*, 9: “*wa-ākhir al-madhāhib inqirāḍan min al-arḍ madhhab al-imām Abī Ḥanīfa*”). This may be related to the opinion of some Ḥanafī Sufis who claim that Jesus and the Mahdī will judge in accordance with their school: see Sirhindī, *Muʿarrab al-Maktūbāt al-sharīfa*, repr. in *al-Muntakhabāt min al-Maktūbāt*, ed. Hüseyin Hilmi Işık, Istanbul 1972, 149-50 (from letter no. 55 of the second volume of the *Maktūbāt*); M. b. ‘Abd al-Rasūl al-Barzanjī, *al-Ishāʿa fī ash-rāṭ al-sāʿa*, Cairo: Dār Qutayba, 1409/1989, 236.

<sup>150</sup> *Laṭāʾif*, II, 90, tr. and commented on by T. Nagel, “Le mahdisme d’Ibn Tūmart et d’Ibn Qasī: une analyse phénoménologique,” *Revue des mondes musulmans et de la Méditerranée* 91-94 (2000), special issue: *Mahdisme et millénarisme en Islam*, ed. M. García Arenal, 125-36, at 126-7.

<sup>151</sup> “Il Polo l’ho visto vendere fave calde in Via dei Pettinari”: *Laṭāʾif*, I, 284; tr. in ‘Abd al-Wahhāb ash-Shaʿrānī, *Il libro dei doni (Kitāb Laṭāʾif al-minan wa l-akhlāq)*. Passi scelti, tradotti e annotati da V. Vacca, Napoli: Istituto Universitario Orientale, 1972, 159.

<sup>152</sup> See in particular *Mizān*, I, 59, the chapter on the latitude (*tawsiʿa*) of Abū Ḥanīfa, Shaʿrānī’s beautiful commentary on the Imam’s pronouncement in favor of the purity of earthenware (fire purifies the earth contained in the fresh clay). If it were not for the general adoption (*taqlīd*) of this opinion, everyday life would be unbearable, because all sorts of pottery would be polluting. Besides bestowing an extraordinary ease on people, this legal opinion is also related to eschatological hope. Shaʿrānī suggests that its textual indicator (*dalīl*) may be the tradition according to which Muslim sinners will be admitted in Paradise after having been purified by the flames of Hell. See also *ibid.*, I, 88.

different schools is indeed popularized: the Sufi novice, following a spiritual teacher, can attain the vision of the “source” within three years, or “in the shortest time.”<sup>153</sup> More than that, the simple reading of the *Mizān* gives the reader a “taste” of the “balance,” saving him the effort of spiritual training,<sup>154</sup> and even the least sophisticated of readers can catch a glimpse of the relationship between the “source” and its derivations, thanks to the drawings in the book. This “synthetic” awareness of unity in diversity does not free the layman from submission to authority but makes of him a willing *muqallid*. On the other hand, the perfect heir of the Prophet, who through inspiration knows the law “as it really is,” is not so much a model of conduct, opening the way to the claims of would-be independent interpreters, as he is a guarantor of the truth that is always present in the world. His existence is certain but his identity is unknown, as is the case with the *mujtahid muṣīb*.

To conclude: the most original feature of Shaʿrānī’s treatment of legal methodology from the perspective of the *ahl al-kashf* seems to be his valorization of *taqlīd*, to the extent that even the most negative meaning of the term, i.e., “accepting the opinion of another without proof,” often criticized by Shaʿrānī, takes on a positive connotation when associated with a form of obedience that reminds the believer of that which is due to the Sufi master.<sup>155</sup>

Sufi thought is a source of inspiration for Shaʿrānī not only in his pleading for *ijtihād* but also in his acceptance of *taqlīd*. In the post-classical period, the vital tension between the direct confrontation with the sources and the mediating authority of their interpreters lies at the center of both the Sufi tradition and the legal tradition. Indeed, the interplay between these two complementary concepts is an essential feature of pre-modern religious culture, and their polarization is the result of modern sensibilities.<sup>156</sup> Therefore, the imaginative metaphors

<sup>153</sup> *Mizān*, I, 19, l. 14; 25, l. 9.

<sup>154</sup> *Ibid.*, I, 7 (“*saʿalūnī... īṣāl maʿrifatihā ilā qulūbihim dhawqan min ghayr sulūk fī tariq al-riyāda*”).

<sup>155</sup> *Mizān*, I, 36, from ʿAlī al-Khawwās: to ask about the textual indicator of the different opinions adopted by the schools is a discourtesy on the part of the *muqallid*; see also *ibid.*, 16. On the classical Sufi teaching, according to which the duty of unquestioning obedience distinguishes the Sufi novice from the student of law, see Meier, “Hürāsān und das Ende der klassischen Šūfik,” 555, 560, 562.

<sup>156</sup> The point has been discussed in the articles by N. Calder and M. Fadel quoted above. See also S.A. Jackson, “*Taqlīd*, Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory: *Muṭlaq* and ʿ*Āmm* in the Jurisprudence of Shihāb al-Dīn al-Qarāfī,” *Islamic Law and Society* 3/2 (1996), 165-92.

fashioned by Sha'rānī to express the positive connotations of *taqlīd*, as witnesses to the mentalités of his age, are perhaps even more significant to the present day-historian than his contribution as a legal theorist. I will conclude this essay by reviewing a few of these metaphors.

*Taqlīd* represents the actual historical situation on earth. In the scheme of the levels of manifestation of the divine word mentioned above (*Mizān*, I, 38), *taqlīd* corresponds to the "ground floor," that is the "floor" on which lives the generation (*ṭabaqa*) of present-day scholars. This is the historical stage of "veiling" that follows the stage of revelation proper and the stage of the direct confrontation with it which led to the crystallization of the schools. In this reality, everyone, under normal conditions, is separated from the "source" by the "veil" of a mediating authority: students of *fiqh* as well as Sufi novices, no less removed from the "source" than every believer-*muqallid*. "Imitation" (in the form of *sulūk* under the direction of a master or in the form of loyalty to a school) is as a matter of principle necessary to all.<sup>157</sup>

The *ṭarīqa* controls access to *kashf* in the same way as the *madhhab* controls access to scriptural sources. And to a certain extent even the "Balance," like Sha'rānī's *mukhtaṣars* of the *Futūḥāt*, serves to control access to Ibn 'Arabī's magnum opus, accommodating its hermeneutics of the revelation to the "age of *taqlīd*."

But *taqlīd* also represents history as a dynamic process. Interpretation within the schools is tied to a given moment in time. Faithfulness to the school requires adaptation to the changes produced by its diachronic development. Sha'rānī articulates his perception of the dynamic nature of the school's activity, describing the mutual relationship between loyalty and change in exactly the same terms that he could have used to illustrate the continuity of initiation within the *ṭarīqa*.

A scholar can never explicate (*faṣṣala*) what is ambiguous (*mā ajmala*) in the speech of the preceding generations (*adwār*), were it not for the light from the Lawgiver (pbuh) which is connected with him (*al-nūr al-muttaṣil bihi min al-shāri' ṣ.*). The source of this favor (*minna*) is

<sup>157</sup> It is the duty of the beginners to adhere to a particular school (*iltizām madhhab mu'ayyan*) or to follow a single spiritual teacher (*iltizām shaykh wāḥid*): *Mizān*, I, 19, ll. 8-9. On the description of the *mujtahid* as a "veil" between the "source of the law" and the *muqallid*, see *Mizān*, I, 18, 20, 21, 23, 24, 25, 28. Aḥmad Sirhindī used this common metaphor to describe the spiritual teacher: see ter Haar, *Follower and heir of the Prophet*, 159. In another work, Sha'rānī explicitly compares the Sufi novice to the *muqallid*: see Geoffroy, *Le Soufisme en Égypte et en Syrie*, 488.

in reality the Messenger of God, who is the one who gives the law (*ṣāhib al-sharʿ*), because it is he who gave the scholars that “matter” (*mādda*)<sup>158</sup> through which they explicate what is ambiguous in his speech. In the same manner, after the Prophet, this favor is bestowed by each generation on the one that is “beneath” it. Thus, supposing that the people of a given epoch could go beyond the generation “above” them, passing on to the one that came before, their connection with the Lawgiver would be cut, and they would no longer be guided to the elucidation of unsolved questions and to the explication of ambiguous statements (*fa-law quddira anna ahl dawr taʿaddaw man fawqahum ilā al-dawr allādhī qablahu la-nqataʿat wuṣlatuhum biʾl-shārīʿ wa-lam yahtadū li-īdāḥ mushkil wa-lā tafṣīl mujmal*).<sup>159</sup>

The change caused by the internal development of the schools is also a sign that the process of manifestation of the divine word is itself still unfolding in historical time. When the *ʿulamāʾ* of a given generation give preponderance to one doctrine over another, they act in a way comparable to that of the prophets, who abrogate past legal rules without stripping them of their revealed character.<sup>160</sup> “And it may be said—but God knows best!—that God wanted this, so that the *ʿulamāʾ* of this community experienced what happened to the prophets of whom they are the heirs: the manifestation of something like a new law (*ẓuhūr sharʿ kaʾl-jadīd*) at any moment in time.”<sup>161</sup>

<sup>158</sup> This “matter” is the *Sunna*, which removes the ambiguity of the Qurʾān, but it is also identical to the “light” referred to above, i.e. the interpretative faculty transmitted by the Prophet. See also *Mizān*, I, 36, from ʿAlī al-Khawwās: “The niche from which the lamp of the scholar is lit is only the light of the heart of the Messenger of God” (“*mā ittaqada miṣbāḥ ʿālim illā min mishkāt nūr qalb rasūl Allāh*”). The transmission of the primordial substance of the Prophet, often described as “the remnant of his clay,” is a fundamental metaphor of initiatory continuity in the *ṭuruq*: see e.g. ʿAbd al-Ghanī al-Nābulusī, *Natījat al-ʿulūm wa-naṣīḥat ʿulamāʾ al-rusūm*, Damascus, Maktabat al-Asad al-waṭaniyya, Ms. n. 5555, ff. 8b-24a, 13b (this text is edited and translated in S. Pagani, *Il rinnovamento mistico dell’Islam. Un commento di ʿAbd al-Ghanī al-Nābulusī a Aḥmad Sirhindī*, Napoli: Università di Napoli “L’Orientale,” 2003). On the background of this conception, see U. Rubin, “Pre-existence and light. Aspects of the concept of Nūr Muḥammad,” *Israel and Oriental Studies* 5 (1975), 62-119.

<sup>159</sup> *Mizān*, I, 30.

<sup>160</sup> Shaʿrānī specifies that the comparison with abrogation (*naskh*) should not be taken literally. As he says elsewhere, the adoption of non-preponderant views (*al-ʿamal biʾl-marjūḥ*) is permitted under certain circumstances: *Mizān*, I, 16.

<sup>161</sup> *Mizān*, I, 27.